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MONTANA INDEX OF ENVIRONMENTAL PERMITS

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Montana State Legislature
Legislative Environmental Policy Office
Environmental Quality Council
State Capitol, Room 106
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Keep in Mind . . . .

This document summarizes portions of Montana law that deal with the use and development of the state's natural resources. It is not, however, a legal document and should not be relied on exclusively to determine legal responsibilities.

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INTRODUCTION

PERMIT INDEX

The *Montana Index of Environmental Permits* is prepared by the Environmental Quality Council staff to provide a complete list of the permits and licenses needed to conduct activities that may affect the state's environment. The permit index lists the permits required, the permitting agencies and the statutes and rules that regulate each permit.

The permit index is **not** a legal document. Anyone planning an activity should contact the administering agency for detailed information before beginning a project.

HOW TO USE THE PERMIT INDEX

Find the relevant activity through the index or table of contents.

On the appropriate page, the entry will look like this.

DAIRIES

1. Types of Activities Regulated

A license for the operation of a dairy must be obtained from the Montana Department of Livestock (DOL). All licenses must be renewed annually by January 31st following the date of expiration. Prior to construction, the appropriate permits must be obtained from the Montana Department of Environmental Quality for any discharge of waste into ground or surface waters (see WATER QUALITY PERMITTING, p. 160) or for the release of air pollutants (see AIR QUALITY PERMITS, p. 31).

Statute: *81-21-102 through 106, MCA*
81-22-201 through 209, 305 and 403; MCA

DEPARTMENT OF LIVESTOCK
Meat, Milk and Egg Inspection Division

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

The text in the entry describes the various permits and licenses that are necessary for the activity . . . → →

. . . and cross references other sections of the → → index that more fully describe other permits.

Listed below the text are the relevant statutes from → → the *Montana Codes* (MCA) and the relevant rules (if any) from the *Administrative Rules of Montana (ARM).*

Finally, the entry lists the appropriate → → agencies to contact.

Next, if the activity is proposed in a specially designated area such as a conservation district or floodplain, check the land designation section located in the first 14 pages of the index. The land designation section is used primarily as a reference to complement information in the activity section.

It is important to note that if the action will affect any species or species habitat protected under the state or federal Endangered Species Acts, special regulations apply. (See Nongame and Endangered Species, p. 80.)

In addition, any project that may have an impact on the environment is subject to review under the provisions of the Montana Environmental Policy Act (p. 105).

THE STATE REGULATORY STRUCTURE

Montana state government is divided into three branches: legislative, executive and judicial. The laws governing the state are enacted by the Legislature, implemented by the Executive Branch and interpreted by the Judicial Branch.

The state's environmental programs are administered by agencies of the Executive Branch. Each agency is headed by a governor-appointed director who is responsible for the operation of the department. The department is composed of divisions, that are divided into bureaus, that may be further divided into sections.

The Executive Branch agencies administer programs established by statute (contained in the *Montana Code Annotated*) and rule (contained in the *Administrative Rules of Montana*). The principal agencies involved in the issuance or review of environmental permits are the Departments of Agriculture; Environmental Quality; Livestock; Natural Resources and Conservation; Transportation; Fish, Wildlife and Parks; and Public Service Regulation.

FEDERAL AND LOCAL GOVERNMENT PERMITS

Montana administers several federal environmental programs under agreement with the United States Environmental Protection Agency: air and water quality, solid and hazardous waste, and asbestos and pesticide regulation. Montana has also been certified by the U.S. Department of the Interior to administer the federal Surface Mining Control and Reclamation Act (SMCRA). Some federal programs are mentioned in the permit index, but it is important to check with the appropriate state agency to determine if any associated federal permits are required for an activity.

Local governments such as town councils, county commissioners, or local health officials also administer permits. For a list of local governing authorities, see Appendix 3.

GENERAL INFORMATION

The permit index is a starting point for finding information on environmental regulations for certain activities. It does not replace assistance from agency personnel who have the responsibility to help citizens comply with Montana's environmental laws. To avoid difficulties, contact the permitting agencies as soon as possible and integrate environmental regulations into your planning process early.

For answers to general permit questions, call the Governor's Office (444-3111), the Environmental Quality Council (444-3742), the Department of Commerce (444-3494), or the Citizen's Advocate Office (444-3468, 1-800-332-2272).

DIRECTORY OF PERMITS

LAND DESIGNATIONS

If the proposed development or activity will be located in one of the following special land designations, contact the appropriate authorities for special land use and activity restrictions.

AIRPORT AREAS

1. **Types of Activities Regulated**

Airport areas owned strictly by a public entity or a political subdivision are regulated by three main laws (see below). Generally, the following considerations are important when building near a publicly owned, public use airport: safety of airport users, public safety, character of flying operations, noise levels, terrain, future development and Federal Aviation Administration regulations.

Any privately owned, private use airport is not subject to the following regulations, but must submit a letter of notification as described by the Federal Aviation Administration.

A. Airport Influence Areas: Local governments that own airports must designate airport influence areas that are within 10,000 feet of the runway and, within 1 year of designation, must adopt and provide for the administration of rules restricting the height of structures and trees. Any person altering the approved ground and/or airspace within the airport influence area must apply to the appropriate local government for a permit.

Statute: 67-4-101 *et seq.*, MCA

Contact: LOCAL GOVERNMENT
Zoning Board

B. Airport Hazard Regulation: Within two miles of a publicly owned, public use airport, no structure or tree may have a height of more than one-seventh its distance from the nearest boundary of an airport (one-twentieth of the distance if the structure is in the defined approach slope or turning zones).

Statute: 67-5-101 *et seq.*, MCA

Contact: STATE AND LOCAL JURISDICTIONAL GOVERNMENT

C. Airport Zoning Act: State or local governments having authority over publicly owned, public use airports may adopt regulations dividing airport hazard areas (areas within two miles of airports) into zones and specifying land uses permitted within each zone. The controlling authority may enact a permitting system in which a variance may be granted if enforcement of the rules would cause unnecessary hardship, the

proposed construction is not contrary to the public interest and the new structure does not present an immediate hazard to safe flying conditions.

Statute: Airport Zoning Act, 67-6-101 *et seq.*, MCA

Contact:: STATE AND LOCAL JURISDICTIONAL GOVERNMENT

CONSERVATION DISTRICTS

1. General

Lands located within a conservation district may be subject to land use regulations designed to conserve soil and water resources and prevent and control erosion. Copies of the land use regulations are available to all occupiers of land within the district. These regulations are adopted with voter approval through a referendum and are administered by the conservation district supervisors. Once the referendum is enacted, the district supervisors may compel compliance through a petition to district court. Variances awarded upon demonstration of great practical difficulties or unnecessary hardship are allowed.

The county conservation district requires a 310 permit when a private, nongovernmental individual or entity proposes work in or near a stream on public or private land (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11). Types of activities regulated may include the following: engineering operations for dams, dikes, ponds, ditches, fences and other construction; cultivation methods or grazing, including contour cultivating and furrowing, sowing, planting, seeding and forestation; cropping and tillage practices; and other actions taken to prevent soil erosion.

Statute: 76-15-701 *et seq.*, MCA: land use regulations
75-7-101 *et seq.*, MCA: stream preservation

Contact: CONSERVATION DISTRICT (see APPENDIX 3 for a list of conservation districts by area); or

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Conservation and Resource Development Division
Conservation Districts Bureau

FLOODPLAINS AND FLOODWAYS

1. Types of Activities Regulated

Artificial obstructions and nonconforming uses within a designated floodplain or floodway require a permit from the local governing body or from the Montana Department of Natural Resources and

Conservation (DNRC) if local authorities have not adopted rules. Local governments may adopt land use regulations, including floodplain management regulations within sheetflood areas, that may restrict development. If local regulations are not adopted, the DNRC must adopt and enforce minimum standards.

Statute: Floodplain and Floodway Management Act, 76-5-401 through 406, MCA

Rule: ARM 36.15.601-801

Contact: LOCAL GOVERNMENT (City or County)

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

2. Application Requirements

The application for a permit for obstructions or uses in a designated floodplain or floodway must be submitted to the local government or the DNRC and must contain maps, plans, profiles and specifications of the obstruction or use of the water course or drainway.

Statute: 76-5-404, MCA

3. Permitting Procedures

Permits for obstructions or uses in a designated floodplain or floodway must be approved or denied within a reasonable time, usually 60 days after the receipt of an application.

Statute: 76-5-405(2), MCA

Rule: ARM 36.15.216

4. Fees

An application fee, set by the local government, is required for a floodplain or floodway obstruction permit.

Statute: 76-5-405(3), MCA

Rule: ARM 36.15.204(3b)

5. Criteria

The following criteria must be considered by the local government in evaluating a permit application: danger to life and property by water that may be backed up or diverted by the obstruction or use; danger that the obstruction or use may be swept downstream and cause injury; alternative methods of construction or alteration of obstruction or use which will minimize the danger; the availability of alternate locations; permanence of the obstruction or use; anticipated development in the area and other factors specified by law.

Statute: 76-5-406, MCA

Rule: ARM 36.15.216

ISLAND PARKS

1. Types of Activities Regulated

To promote the preservation of state-owned island areas, the 1997 Legislature designated undisputed state-owned or state-leased island property as *island parks*. New development is limited to minimal signage noting the designation, latrines approved by the Fish, Wildlife and Parks Commission, bridge footings and pilings, and oil and gas leasing. Improvements and agricultural uses in existence prior to April 30, 1997 are allowed, but further development is limited.

Statute: 77-1-405, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

HERITAGE SITES

ANTIQUITIES PERMITS

1. Types of Activities Regulated

Individuals or organizations proposing to excavate a heritage property or paleontological remains on state-owned land for scholarly purposes must obtain an antiquities permit from the State Historic Preservation Officer. The preservation officer will consult with the appropriate state land management agency in issuing a permit. Permits may not be granted unless the preservation officer is satisfied that the individuals carrying out the proposed work are qualified to guarantee proper

excavation of those sites and objects that may add substantially to existing knowledge of the state and its antiquities.

Statute: Montana Antiquities Act, 22-3-421 through 442, MCA

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office

2. Criteria

The heritage value of any historic or prehistoric site identified is determined by the National Register of Historic Places, Criteria for Evaluation.

3. Additional Information

Applicants for licenses or permits are encouraged to provide the permitting or licensing agency with specific information on the legal location of the proposed project, previous land use and land condition. This information assists the agency and the State Historic Preservation Office in determining whether a cultural resource inventory of the proposed area is needed.

HERITAGE SITES

1. Types of Activities Regulated

State actions or state licensed, assisted or permitted actions that have the potential to substantially alter heritage properties or paleontological remains or excavation of heritage properties on state-owned lands are regulated.

In consultation with the State Historic Preservation Office, the state agency is required to determine whether a proposed action, initiated by the agency or by an applicant's request for a license or permit, may impact sites, structures or objects on state-owned lands that qualify or would qualify as heritage properties. If the action will affect these properties, the agency must seek ways to avoid or mitigate substantial alterations of the property whenever feasible. These procedures may require completion of a systematic cultural resources inventory, documentation of a property likely to be harmed, consideration of alternative projects, special protective stipulations, project modifications, or denial of the project. Agencies may require applicants for permits or licenses to complete portions of this analysis. The state agency is responsible for insuring that proper procedures are followed. After consultation with the Preservation Office, the agency is responsible for determining how to proceed with the proposed action.

Statute: Montana Antiquities Act, 22-3-421 through 442, MCA

Rule: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION and the DEPARTMENT OF FISH, WILDLIFE AND PARKS have agency rules; for other agencies contact the agency or the HISTORICAL SOCIETY, State Historic Preservation Office

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office

HUMAN SKELETAL REMAINS AND BURIAL MATERIALS

1. Types of Activities Regulated

The state Burial Preservation Board must be petitioned for a permit for the removal and/or analysis of human skeletal remains and burial material from any unmarked burial sites on both state and private land. The State Historic Preservation Office reviews and comments to the Board on all permit applications.

Statute: Human Skeletal Burial Remains and Burial Site Protection Act, 22-3-801 through 811, MCA

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office

LAKESHORES

1. Types of Activities Regulated

If the local government has adopted lakeshore protection regulations, a permit is required for any work that will alter the current or cross-sectional area of a navigable lake or its shore. These activities include construction of channels or ditches; dredging of the lake bottom to remove muck, silt or weeds; ponding; filling; and constructing breakwaters or wharves and docks.

Statute: 75-7-201 through 217, MCA

Rule: As adopted by local governments

Contact: The local governing body authorized to administer the Subdivision and Platting Act on land adjoining a lake, i.e., a Board of County Commissioners or the governing authority of the appropriate city or town.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

2. **Application Requirements**

Specific application requirements are prescribed in regulations adopted by the local government.

3. **Permitting Procedures**

A. Local Regulations: Contact the local government for specific procedures.

1) The local government must seek the recommendations of the local planning board.

2) The local government may provide a summary procedure to permit work it finds has a minimal or insignificant impact on a lakeshore.

3) The planning board must report its recommendations to the local government on whether the proposed work conforms to the criteria for issuance of a permit, and it may require the applicant to submit additional information prior to making its recommendations.

4) A variance from local regulations may be obtained if an impact statement is prepared and a public hearing held.

B. Time requirements:

Unless the applicant for a lakeshore work permit agrees to an extension, the government must grant or deny the permit within 90 days.

Statute: 75-7-207, 211 through 213, MCA

4. **Fees**

See 75-7-210, MCA for a schedule of fees.

5. **Criteria**

The following are minimum requirements and do not restrict a local government from adopting additional or more stringent regulations that may be authorized by other statutes.

The proposed work will not, during construction or its utilization:

1) materially diminish water quality;

2) materially diminish habitat for fish or wildlife;

3) interfere with navigation or other lawful recreation;

4) create a public nuisance; or

5) create a visual impact discordant with natural scenic values as determined by the local government, when such values form the predominant elements of the landscape.

6. Additional Information

Landowners may petition the Montana Department of Natural Resources and Conservation to adopt regulations for a particular lake until the local government adopts the necessary regulations.

NATURAL AREAS

1. Types of Activities Regulated

A natural area is one affected primarily by natural forces, with outstanding natural features worthy of preservation and with minimal evidence of human activity. State-owned lands which are controlled or acquired by the Board of Land Commissioners may be designated as natural areas and leased for such purposes. Each area so designated will be leased and managed by a *managing entity* and will be subject to a master plan setting forth specific land use limitations and controls. Activities allowed in natural areas may include grazing, recreation and snowmobiling. If feasible, the state of Montana will hold the water and mineral rights in order to adequately protect the area.

Statute: 76-12-101 *et seq.*, MCA

Rule: ARM 26.5.201 *et seq.*

Contact: BOARD OF LAND COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

OPEN SPACE - CONSERVATION EASEMENTS

1. Types of Activities Regulated

A public body may acquire title to or interest in real property for the purpose of preserving the land's natural, scientific, educational or aesthetic resources. By acquiring this interest or title, the holder establishes a conservation easement on the land whereby the landowner relinquishes to the holder of

the easement the right to develop the land or alter its natural character. The terms of the easement may prohibit or limit construction, excavation, surface uses, etc. The existence of a conservation easement should appear on the deed to the property.

Statute: 76-6-101 *et seq.*, MCA
87-1-209, 87-1-241 and 87-1-242, MCA

Contact: LOCAL GOVERNMENT
County Clerk and Recorder

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Field Services Division

STATE LANDS

1. Types of Activities Regulated

Activities on state-owned land, including the beds of navigable waterways, generally require permits, leases or easements from the Montana Department of Natural Resources and Conservation (DNRC) and approval from the Board of Land Commissioners. See HERITAGE SITES, p. 4; CROPLAND AND GRAZING LEASES, pp. 17and 19; COMMERCIAL CUTTING OF TIMBER or TIMBER SALES, p. 56; GEOTHERMAL LEASES, p. 36; HYDROELECTRIC POWER DEVELOPMENT, p. 38; MINING, p. 85; GEOPHYSICAL EXPLORATION, p. 112; and OIL AND GAS, p. 112.

In addition, the Montana Department of Fish, Wildlife and Parks and other state agencies should be contacted for information regarding rules and procedures on lands owned or administered by those agencies.

2. Easements

The Board of Land Commissioners may grant easements on state lands for school-house sites or grounds, public parks, community buildings, cemeteries or other public uses upon proper application accompanied by accurate and verified plats. The Board also may grant an easement for right-of-way across any portion of state lands, including the beds of navigable waterways, for any public highway or street, ditch, reservoir, railroad, private road, telegraph or telephone line, or any other public use (see HIGHWAY ENCROACHMENTS - EASEMENTS, p. 60). Application for an easement on state lands must be made to the DNRC. Compensation must be the full market value of the use of the land, plus any diminution in value of adjacent state lands.

3. Exchange of Land

The Board of Land Commissioners is authorized to exchange state land for private land provided that the private land is of equal or greater value than the state land and approximately equal in area. The

Board has a written policy and criteria for considering and processing land exchanges. Prior to the exchange, a public hearing must be held in the county containing the state land. Objections to the exchange may be made at the hearing.

4. Leases

State lands may be leased to any person over 18 years old, heads of families and to associations, partnerships and corporations. When the department receives an application to lease a tract, it will advertise for bids and accept the highest bid, unless the Board determines that the highest bid is not in the best interest of the state. See *Types of Activities Regulated*, on the previous page, for references to specific types of leases.

Statute: Title 77, Chapters 1-6, MCA

Rule: ARM 36.2.1001 *et seq.*, ARM 36.2.1002 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

5. Recreational Use License

A recreational use license is required for a person 12 years of age or older for general recreational use of state lands. The license is issued for a twelve month period beginning March 1st of each year and expiring the last day of February the following year. (See also HUNTING, FISHING etc., p. 62; and, PARKS AND RECREATION, p. 115.)

Lessees of state land can request approval from the DNRC for closure of their leased lands if access would interfere with agricultural or ranching operations. The DNRC may also close certain state lands for a number of reasons, including damage to lands from recreational use or the existence of endangered species, but must first provide public notice and an opportunity for a public hearing.

The fee for a recreational use license is $10: for persons 12 to 17 years of age or 60 years of age and older, the license is $5. A family license is $20.

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

Statute: 77-1-804, *et seq.*, MCA

Rule: ARM 36.25.143 *et seq.*

6. Sales of Land

The Board of Land Commissioners is authorized to sell state lands, with the exception of timberlands and those lands containing valuable deposits of coal, oil, oil shale, phosphate, metals, sodium or other valuable minerals. No person or corporation may purchase more than one section of state land, and this area must not include more than 160 acres of land susceptible of irrigation. All sales of state lands are conducted through public auction held at the county courthouse of the county in which the lands are located. The current lessee of state land retains a preference right which allows the lessee to match the high bid and, therefore, be awarded the sale.

Contact: BOARD OF LAND COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

Statute: 77-2-301 through 351, MCA

Rule: ARM 36.25.128-131

STREAM BEDS - STREAM BANKS - WETLANDS

1. Types of Activities Regulated

A. Private Projects: A private, nongovernmental individual or entity proposing to work in or near a stream on public or private land must apply for a 310 permit from the board of supervisors of the conservation district in which the project takes place. The applicant should contact the county conservation district (Title 76, Chapter 15, MCA) prior to initiating any activity.

Statute: Natural Streambed and Land Preservation Act, 75-7-101 *et seq.*, MCA

Rule: ARM 36.2.401, *et seq.*

Contact: CONSERVATION DISTRICT (see APPENDIX 3 for a list of conservation districts by area); or
BOARD OF COUNTY COMMISSIONERS; or

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Conservation and Resource Development Division
Conservation Districts Bureau

B. Public Projects: Any agency or subdivision of federal, state, county or city government, with the exception of irrigation districts, must apply for a Stream Protection Act (also called a 124) permit from the Montana Department of Fish,

Wildlife and Parks (DFWP) before beginning a project that may alter the bed or banks of any stream or river in Montana.

Statute: 87-5-501 *et seq.*, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. **Permitting Procedures**

A. Private Projects: An individual planning a project must contact the conservation district office to obtain a permit application prior to any activity in or near a stream. After submission of an application to the conservation district office, district supervisors must determine within five days of their monthly meeting if the proposed activity requires a 310 permit. If a permit is required, a team composed of a district supervisor, a DFWP biologist and the applicant conduct a site inspection. The supervisors have 60 days from the date of application to approve, modify or deny the permit.

Statute: 75-7-112 through 116, MCA

B. Public Projects: An agency planning a project must submit a Notice of Construction (application) to the DFWP at least 60 days before beginning construction. Within 30 days after receipt of project plans, the department must notify the applicant whether or not the project will adversely affect any fish or wildlife habitat. The department may require modifications to the project and make recommendations for alternative plans. If the applicant refuses to modify the plans, and an agreement cannot be reached, an arbitration panel may be appointed by the district court.

3. **Emergencies**

A. Private Projects: No prior notice or approval is necessary for emergency actions taken to safeguard life or property. However, notice must be given to the supervisors or commissioners within 15 days following the emergency action. A team will be called together to evaluate the project.

Statute: 75-7-113, MCA

B. Public Projects: A 124 permit is not required from public agencies for situations requiring emergency response such as ice jams, floods, etc.

Statute: 87-5-506, MCA

4. Other Information and Requirements

A land use license or easement is required by an entity proposing a project on lands below the low water mark of navigable waters as designated by the Montana Department of Natural Resources and Conservation (DNRC) (see STATE LANDS, p. 9).

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

Under Section 10, Rivers and Harbors Act of 1899, any structure or work on, over, under or affecting navigable waters requires authorization from the U.S. Department of the Army, Corps of Engineers. Navigable waters in Montana regulated by the Corps, under the Rivers and Harbors Act, include the Missouri River from Three Forks downstream to the Montana-North Dakota border; the Yellowstone River from Emigrant downstream to its confluence with the Missouri River; and the Kootenai River from the Canadian border downstream to Jennings, Montana.

Under Section 404 of the federal Clean Water Act (33 U.S.C. 1344), a permit is required from the U.S. Department of the Army, Corps of Engineers for the excavation or placement of any dredged or fill material in United States' rivers, streams, lakes or jurisdictional wetlands. The U.S. Environmental Protection Agency develops environmental review criteria, reviews projects and has enforcement authority under the Act.

Statute: Rivers and Harbors Act, 33 U.S.C. § 401 *et seq.*
Clean Water Act, 816, 33 U.S.C.A. § 1251 *et seq.*

Rule: 33 C.F.R. 209 and 40 Federal Register 31319

Contact: U.S. Department of the Army
Corps of Engineers
District Engineer

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

A person planning new construction--including, but not limited to--placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of equipment or materials, excavation and new construction of or additions to mobile homes and residential and commercial buildings must check with the DNRC to determine if the activity is in a designated floodplain or floodway (see FLOODPLAINS and FLOODWAYS, p. 2).

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

A 3A authorization must be obtained from the Department of Environmental Quality prior to initiating a short-term activity that may cause unavoidable short-term violations of state water quality standards (see WATER QUALITY PERMITTING, p. 160). The DFWP may waive this requirement during the 310 or 124 permitting process.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

AGRICULTURE

ANIMAL CONFINEMENT FACILITIES

1. Types of Activities Regulated

A permit is required from the Montana Department of Environmental Quality for any animal confinement facility (feedlot) which could discharge livestock waste into state waters following a 25-year, 24-hour or smaller rainfall event (see WATER QUALITY PERMITTING, p. 160). Other permits may also be required depending on the location of the facility. (See STREAM BEDS, STREAM BANKS, WETLANDS p. 11; and CONSERVATION DISTRICTS p. 2.)

Rule: ARM 17.30.637 and 17.30.1301 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

APIARIES

1. Types of Activities Regulated

A certificate of registration is required for anyone who owns or possesses an apiary in Montana. The Montana Department of Agriculture (DOAg) issues certificates for four types of apiaries: general, pollination, landowner and hobbyist (for specific requirements for each of the four classes, see 80-6-111 through 80-6-115, MCA). General apiaries, as described in the statutes, must be located three or more miles from existing general apiaries, with certain exceptions. Used bee-keeping equipment shipped into or out-of-state must be inspected by the department.

Statute: 80-6-102, 80-6-111 through 115, MCA

Rule: ARM 4.12.102 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Procedures

An application for a certificate of registration for an apiary must be submitted to the DOAg before April 1st of each year on forms provided by the department. Information is required on the name and residence of the bee-keeper, the landowner--if different from the bee-keeper, the location of the apiary, the class of apiary registration requested and other information determined necessary by the department.

3. Permitting Procedures

After receipt of the application and fees, the department may issue a certificate of registration authorizing the number and location of colonies. Before registering a new apiary, the department will give 10 days notice by certified mail to all registered apiarists who are likely to be affected by the new proposal. Affected parties may file a written protest. If a written protest is filed, the DOAg may hold a hearing after giving all interested parties 10 days notice of the hearing date and location.

Once received, registration certificates must be displayed at a conspicuous place at or near the apiary.

4. Fees

Fees must be paid before April 1st of each year and in proportion to the number of colonies owned or possessed.

1-10 colonies	$20
11-200 colonies	$50
201-500 colonies	$80
501-1000 colonies	$140
1001-3000 colonies	$200
3001-5000 colonies	$280
5001 + colonies	$400

Statute: 80-6-105, MCA

5. Additional Information

Apiary registrations may be voided if hives are no longer active by submitting a written request to the department.

Rule: ARM 4.12.105

COMMERCIAL FEED

1. Types of Activities Regulated

A. A permit is required from the Montana Department of Agriculture (DOAg) for a person to manufacture or distribute commercial feed.

B. Manufacturers must register commercial feed with the department prior to distribution.

C. Commercial feeds, except custom mixed feeds, must be labeled. The labels must be

truthful and appropriate to the product and contain specific information requested by the department.

Statute: 80-9-201 *et seq.*, MCA

Rule: ARM 4.12.202

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. **Application Requirements**

A. An application form for a commercial feed manufacturer/distributor's license is available from the DOAg and requests the applicant's name, place of business and facility location. A permit is required for each facility, distribution point or point of invoicing. Permits must be renewed annually and expire on December 31st.

B. To register a commercial feed, the applicant must provide their name and address, a copy of each label or label facsimile and other information requested by the department. Commercial feed must be registered annually. The registration is valid from October 1st to September 30th.

3. **Fees**

The fee for a feed permit is $25. The registration fee is $25 for each pet food and specialty pet food and $6.50 for each other product. An inspection fee of 15% per ton must be paid on all commercial feeds, including custom mixed feeds, but excluding pet foods and specialty pet foods.

Rule: ARM 4.12.219

CROPLAND LEASES ON STATE LANDS

1. **Types of Activities Regulated**

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a *crop share rental value* of not less than one-fourth of the annual crop, or the usual *landlord's share*, whichever is greater. (See also GRAZING, p. 19).

Statute: 77-6-501 *et seq.*, MCA

Rule: ARM 36.25.102 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

2. **Leasing Procedures**

A. Leases go to the highest bidder, unless the Board determines that this decision is not in the state's best interest.

B. Present leaseholders have a preference right over others seeking to lease the same land. These leaseholders may meet the highest bid made by any applicant by exercising their preference right, and may appeal the bid to the Board if they consider the bid excessive. Present holders may exercise their preference only if they have not subleased the land for more than two years in the term of the lease or more than five years if subleased to a spouse, son, daughter, adopted child or sibling of the lessee. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease.

C. Lease terms are five or ten years.

Statute: 77-6-201 *et seq.*, MCA

FERTILIZER REGISTRATION

1. **Types of Activities Regulated**

Fertilizers and soil amendments, except unmanipulated animal and vegetable manures, must be registered by or on behalf of the manufacturer with the Montana Department of Agriculture (DOAg) before distribution in Montana. Also, an annual license is required from the DOAg to sell or distribute fertilizer. Licenses and registrations expire on December 31st of each year. (See also PESTICIDES, p. 22).

Commercial fertilizer containers and packaging must be labeled. The labels must be truthful and appropriate to the product and contain specific information requested by the department.

Statute: 80-10-201, 202 and 204, MCA

Rule: ARM 4.12.601 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

An applicant for a fertilizer distribution license must complete forms provided by the department. All applications for fertilizer registration must include the brand, grade and guaranteed analysis of the fertilizer, the source of each plant food element, the name and address of the applicant, a copy or facsimile of the label and promotional material, and, if requested, replicated data verifying claims for effectiveness.

Statute: 80-10-201 *et seq.*, MCA

Rule: ARM 4.12.601 and 604

3. Fees

The fee for registering fertilizers is $20 (including the $10 fee for the ground water account) per grade for each fertilizer; $10 per grade for each soil amendment; and $35 (including the $10 fee for the ground water account) for each specialty fertilizer.

New applicants for fertilizer distribution licenses, or those failing to renew by January 1, pay a nonrefundable $75 fee. License renewals received before January 1st are $50.

The DOAg also assesses inspection fees on the tonnage of fertilizer distributed. These fees are 10 cents per ton for soil amendments, 60 cents per ton for fertilizers (which includes the special assessment fee) and $1 per ton for anhydrous ammonia (which includes the special assessment fee).

Statute: 80-10-201, 202 and 207, MCA

Rule: ARM 4.12.608

GRAZING

1. Grazing Districts

A. Preferences and permits for grazing within a grazing district must be obtained from the grazing district directors.

B. A person who wishes to obtain grazing preferences (i.e., the right to obtain a grazing permit from the district) must make an application to the district. Temporary permits may be issued to nonmembers on an annual basis upon application to the district.

C. Transfer of preferences may not be allowed without the written consent of the owner of the property from which the transfer will be made. A transfer is not effective until approved by the Montana Department of Natural Resources and Conservation (DNRC).

D. Prior to the transfer, a public hearing must be held before the Board of directors of the district.

Statute: 76-16-310, 76-16-401 *et seq.*, MCA

Contact: GRAZING DISTRICT DIRECTORS

2. **State Leases**

A. The DNRC issues leases, through competitive bidding, for grazing on state lands.

B. Leasing Procedures

1) When the DNRC receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding is by sealed bid mailed to the department headquarters in Helena.

2) Present leaseholders have a preference right over others seeking to lease the same land. These leaseholders may meet the highest bid made by any applicant by exercising their preference right, and may appeal the bid to the Board if they consider the bid excessive. Present holders may exercise their preference only if they have not subleased the land for more than two years in the term of the lease or more than five years if subleased to a spouse, son, daughter, adopted child or sibling of the lessee. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease.

3) A person bidding for the lease of state lands must deposit with the DNRC a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to $1 per acre for each acre of agricultural land.

4) The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.

5) Lease terms are five or ten years.

Statute: 77-6-101 *et seq.* and 77-6-201 *et seq.*, MCA

Rule: ARM 36.25.102 *et seq.* and 36.2.1003

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

3. Federal Leases

The Bureau of Land Management and the U.S. Forest Service issue grazing leases and grazing permits for federal land administered by those agencies.

Statute: Organic Administration Act
Federal Land Policy and Management Act
Public Rangelands Improvement Act
Taylor Grazing Act, as amended

Rule: 43 C.F.R. § 4100, 36 C.F.R. § 222(A)

Contact: U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Resource Area or Field Office

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

NURSERIES

1. Types of Activities Regulated

The Montana Department of Agriculture (DOAg) licenses nurseries to control the spread of plant pests, noxious weeds and exotic plants. Nurseries grossing over $1,000 in annual sales must be licensed. A nursery earning less than $1,000 that submits a notarized affidavit to that effect is exempt from this requirement. The department must be notified if any nursery stock or material becomes infested. The DOAg may on its own volition conduct an inspection or the nursery may, by giving the department 5 days notice and paying a fee, request an inspection. A plant inspection certificate may be issued based on the results of the inspection or a survey.

Statute: 80-7-105 *et seq.*, MCA

Rule: ARM 4.12.1405 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agriculture Sciences Division

2. Fees

The license fee for a nursery earning from $1,000 to $3,000 is $30. For a nursery that earns $3,000 or more the fee is $95. The late renewal or new applicant fee is an additional $25. Annual plant inspection certificates are $50.

Statute: 80-7-106, MCA

Rule: ARM 4.12.1405

3. **Additional Information**

The 1997 Legislature authorized the Department of Agriculture to adopt rules for imposing and administering quarantines to control injurious plant pests, plants capable of spreading plant pests, noxious weeds and other exotic plants. The DOAg is also authorized to receive money and impose penalties to fund the program.

Statute: 80-7-401 *et seq.*, MCA: Montana Quarantine and Pest Management Act

PESTICIDES

1. **Types of Activities Regulated**

A. The manufacturer, formulator, or distributor of each pesticide distributed, sold, or transported in Montana must register the pesticide annually with the Montana Department of Agriculture (DOAg).

B. Commercial applicators must be licensed annually by the DOAg. Farm applicators must obtain special-use permits for restricted pesticides.

C. Pesticide dealers also must be licensed annually by the department.

D. All pilots must register their aircraft with the Montana Department of Transportation, Aeronautics Division, and certify that they have met all Federal Aviation Administration requirements for aerial pesticide applicators. Commercial applicator licenses and pesticide dealer licenses expire December 31st following the date of issuance.

Statute: Montana Pesticides Act; 80-8-101 *et seq.*, MCA
Montana Agricultural Chemical Ground Water Protection Act; 80-15-101 *et seq.*, MCA

Rule: ARM 4.10.1501 *et seq.*
ARM 4.11.101 *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

DEPARTMENT OF TRANSPORTATION
Aeronautics Division

2. **Application Requirements**

A. The applicant for pesticide registration must file a statement with the DOAg which includes the applicant's name and address, a complete copy of the pesticide label, the U.S. Environmental Protection Agency registration number if the pesticide is registered, the trade and chemical name of the pesticide, and if required by the department, a description of tests made and the results upon which the claims are based. The state must accept for registration all federally registered products. However, the state may restrict or prohibit the use of a pesticide to prevent harm to individuals, property, plants, trees, animals or fish.

B. The applicant for a pesticide applicator's license must file annually with the department prior to pesticide use. The DOAg's application and liability forms must be completed. The license is renewed if the applicant has not violated any regulations. An operator's license is required for persons employed by an applicator to apply pesticides. A pesticide applicator's and operator's examination or training also is required of each new applicant. Applicants are required to maintain their qualifications in subsequent licensing years by attending training courses.

Farm applicators qualify for their first permit by either passing a graded written examination or attending a training course approved by the DOAg and taking an ungraded written examination. They must also maintain their qualifications by periodically attending training courses. Farmers must file for a new special-use permit every five years.

C. An applicant for a dealer's license must file annually with the DOAg. The applicant must pass an examination administered by the department. Dealers are also required to maintain their qualifications in subsequent licensing years by attending training courses.

D. Individuals applying for a license for aerial application of pesticides must certify on the application that they have met all the Federal Aviation Administration and the DOAg requirements for aerial pesticide applicators.

Statute: 80-8-201, 203-209, 211 and 80-15-302, MCA

Rule: ARM 4.10.201, 203-209, 401-404 and 501-504

3. **Permitting Procedures**

A. Pesticide Registration

1) The Departments of Environmental Quality (DEQ); Agriculture; and Fish, Wildlife and Parks (DFWP) must review all applications for registration of an experimental-use permit or registration of a pesticide for special local needs. The departments utilize the same requirements and standards for reviewing

registrations as established by the Federal Insecticide, Fungicide and Rodenticide Act.

2) The DEQ and DFWP must approve or disapprove applications within 10 days after receipt.

3) If two of the three departments are in agreement with the proposed registration, the DOAg must issue the registration.

Statute: 80-8-201(8), MCA

4. **Fees**

A. The fee for each registered pesticide is $150 annually. A one-time fee of $70 is required for a special local need or experimental-use permit registration.

B. The fee for a commercial pesticide applicator's license is $45 annually. The department assesses an additional $30 fee to fund the state's waste pesticide and pesticide container collection, disposal and recycling program.

The annual fee for a government applicator's license is $75 for each of the first four employees of the government agency, and $20 for each additional employee applicator, not to exceed $600 for an agency.

The fee for a farm applicator permit is $50 for a five year permit.

The fee for pesticide operators is $10 each for the first two operators and $5 for each additional operator.

C. The annual application fee for a commercial dealer's license is $75. The annual fee for a government dealer's license is $75.

Dealers or applicators applying for renewal of a license must do so on or before March 1st of the calendar year. Any previously licensed dealer or applicator applying for renewal of license after March 1st is assessed a $25 late license fee.

Statute: 80-8-201, 203 through 209, 213 and 80-15-302(1), MCA

Rule: ARM 4.10.206(4)

5. **Criteria**

If it does not appear to the department that the pesticide warrants proposed claims for it or if the article and its labeling do not comply with the Montana Pesticides Act, the department must notify the applicant to allow them an opportunity to make the necessary corrections. If the applicant does

not make the corrections, the DOAg may refuse to register the pesticide. The department's decision may be appealed.

Statute: 80-8-201(6), MCA

6. Disposal

Empty containers must be disposed of according to label instructions. This disposal must not cause injury to humans, domestic animals and wildlife, or pollute lakes and streams. Most empty pesticide containers must be triple rinsed, punctured and recycled or disposed of in a sanitary landfill.

7. Public Notice

The owner or manager of a public building must post a notice at the entryway to a building or room where certain pesticides have been applied that tells the name of the pesticide and a number to call for more information.

Statute: 80-7-107, MCA

PRODUCE DEALERS

1. Types of Activities Regulated

A produce dealer's license is required from the Montana Department of Agriculture (DOAg) for a person who 1) wholesales produce in the state, 2) transports produce from out of state to this state for retail sale, or 3) retails produce grown by the produce dealer in this state when gross retail sales exceed $15,000 annually.

A person who retails produce grown by that person in this state with annual gross produce sales less than $15,000 is not required to have a license, but must submit a sworn statement, if requested by the department, providing that the produce was grown by that person, stating the location and the amount of gross sales.

Statute: 80-3-321, MCA

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A person applying for a produce dealer's license must submit an application to the DOAg on forms furnished by the department. Licenses expire December 31st and must be renewed annually.

3. Fees

The fee for a produce dealer's license is $50.

BUILDING AND CONSTRUCTION

ABOVEGROUND STORAGE TANKS

1. Types of Activities Regulated

Owners and operators of flammable/combustible liquid installations must submit a plan describing the proposed facility to the Montana Department of Justice, Fire Prevention and Investigation Bureau prior to installing, operating, removing, abandoning, temporarily taking out of service or otherwise disposing of an aboveground tank used for the storage of flammable or combustible liquids. This submission of plans is required only for the purpose of verifying compliance with the Uniform Fire Code (UFC) and federal law.

Rule: U.F.C. § 105.8 f.3 (modified), U.F.C. § 5201.3.2, 5301.3 and 7901.3

Contact: DEPARTMENT OF JUSTICE
Division of Criminal Investigation
Fire Prevention and Investigation Bureau

2. Application Requirements

All applications must be made in writing and accompanied by plans as described by the Fire Prevention and Investigation Bureau. The plans must indicate the methods of storage, quantities to be stored; product to be stored; distances between tanks (if more than one); distances from buildings, property lines and public ways; access ways; and degree of public or private fire protection. Plans must also include the method or means by which spill control, drainage control and secondary containment is attained: i.e., drainage systems or diking. Storage must be in accordance with approved plans.

Rule: U.F.C. Article 52 (modified), U.F.C. Article 53 (modified) and U.F.C. Article 79 (modified), 7901.8

3. Approval Procedures

Before approval may be issued, an inspector from the Fire Prevention and Investigation Bureau or an authorized representative may inspect the premises or areas to be used. The inspection will include associated buildings on the premises. In instances where laws or regulations are enforceable by other authorities having jurisdiction, joint approval must be obtained from all agencies or departments concerned.

Rule: U.F.C. § 105.4 (modified)

4. **Additional Information**

A. Tank Construction and Design

Tanks must comply with the standards adopted by the Fire Prevention and Investigation Bureau and must be built in accordance with recognized good engineering standards for the construction material used.

Rule: U.F.C. § 7902.1.8.2.1

B. Tank Identification

Aboveground petroleum storage tanks of over 100 gallons capacity permanently installed, mounted or affixed and used for the storage of Class I, II or III-A liquids (for example; gasolines, aviation gas, jet and diesel fuels and fuel oils) must bear a placard identifying the product in accordance with UFC Standard 79-3. Tanks of 300 gallons or less capacity located on private property and used for heating and cooking fuels in single-family dwellings are exempt from this requirement.

Rule: U.F.C. § 7902.1.3.2

C. Tank Abandonment or Closure

Aboveground tanks temporarily out of service and tanks proposed to be out of service for a period of ninety days or more must have all connecting lines isolated from the tank and secured against tampering. Vents must remain open and maintained in accordance with the requirements of the UFC for vents.

An aboveground storage tank which has been out of service for a period of one year or more must be removed from the property in a manner approved by the Fire Prevention and Investigation Bureau. Tanks located at refineries, bulk plants and terminals that are in operation are exempt from this requirement.

Rule: U.F.C. § 7902.1.7.3

D. Discharges and Releases

Flammable or combustible liquids and petroleum waste products must not be discharged or released on sidewalks, streets, highways, drainage canals, ditches, storm drains, sewers, flood channels, lakes, rivers, streams, tidal waterways or on the ground. Unauthorized discharge or release of these products must be handled as set forth in Section 80-105 of the UFC. Discharges or releases may also be regulated under the federal Clean Water Act in the event the discharge or release enters *navigable waters*.

Rule: U.F.C. § 7901.7.1

BUILDING CODES AND RESTRICTIONS

1. Types of Activities Regulated

The statewide building code applies to all construction throughout the state with the exception of residential structures with fewer than five dwelling units; farm and ranch buildings; private garage and storage structures used only by the owner; mine buildings on mine property regulated under the Metal Mine Reclamation Act; and certain petroleum refineries, pulp and paper mills and industrial process-related structures, vessels and piping. Municipalities or counties, by adopting local ordinances or resolutions, may make the state building code applicable to these excepted properties. If towns or counties adopt local building codes, enforcement is by local rather than state authorities.

All residential construction, except farm and ranch buildings and garage and storage structures used by the owner, are required to meet energy conservation provisions of the state building code. If the energy conservation codes are not enforced by local or state government for those residential buildings containing less than five dwelling units, the builder must certify to the owner that the building is constructed in compliance with the energy code. A person constructing a new residential building must attach a labeling sticker to the interior electrical panel stating the energy features of that building.

2. Application Procedures

A permit must be obtained from the appropriate authorities before construction can begin.

Statute: 50-60-101 *et seq.*, MCA

Rule: ARM 8.70.101 *et seq.*

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF COMMERCE
Division of Building Codes

3. Fees

Various fees are required for building, mechanical, plumbing and electrical permits. These are listed in the Montana Department of Commerce rules concerning building codes.

Statute: 50-60-101 *et seq.*, MCA

Rule: ARM 8.70.101 *et seq.*

PLANNING

1. Applicability

The master plan is the primary land use planning tool and document of the city or county. After a public hearing, the planning board recommends the plan to the governing body, which either rejects or accepts it with or without modification. All zoning ordinances and land use decisions must be guided by and give consideration to the master plan. In addition, governing bodies may require subdivision plats to conform to provisions of the master plan.

Statute: 76-1-101 *et seq.*, MCA

Contact: LOCAL GOVERNMENT
Local Planning Board

DEPARTMENT OF COMMERCE
Local Government Assistance Division
Community Technical Assistance Program

ZONING

1. Applicability

Before beginning any development or related activity, a person should determine if local zoning regulations exist. Under Montana law, cities, towns and counties may adopt zoning regulations and establish zoning districts for the regulation of land use, density, height and size of buildings, percentage of lot occupied, size of yards, population density, location and use of buildings, etc. If zoning exists, a permit for the development or activity may be required.

Statute: 76-2-101 *et seq.* and 76-2-201 *et seq.*, MCA: counties
76-2-301 *et seq.*, MCA: municipalities
76-2-401 *et seq.*, MCA: counties and municipalities

Contact: LOCAL GOVERNMENT

LOCAL ZONING COMMISSION

DEPARTMENT OF COMMERCE
Local Government Assistance Division
Community Technical Assistance Program

AIR QUALITY PERMITS: STATE

1. Types of Activities Regulated

An air quality preconstruction permit and/or an air quality operating permit are required from the Montana Department of Environmental Quality (DEQ) for the construction, installation and operation of equipment or facilities that may directly or indirectly cause or contribute to air pollution. Exceptions include residential heating units, food service establishments, ventilating systems, motor vehicles, trains, aircraft, equipment for road construction (except stationary sources--permits are required for temporary crushers and asphalt plants) and other sources which emit less than specified amounts. The city or county may administer its own air quality permit program in lieu of part or all of the DEQ's permit program if the program is approved by the Board of Environmental Review.

Statute: Montana Clean Air Act, 75-2-101 *et seq.*, MCA

Rule: ARM 17.8.701 *et seq.*, 17.8.1201 *et seq.*

Contact: LOCAL BOARD OF HEALTH

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

2. Application Requirements

Applicants for air quality preconstruction permits must file the appropriate permit applications with the DEQ on forms supplied by the department at least 180 days before construction begins, or if construction is not required, at least 120 days before installation, alteration or use of the facility begins.

Applicants for air quality operating permits for new *major sources* (as defined by department rule) must submit their applications concurrently with any associated preconstruction permit. Existing facilities required to submit an application under the new program must do so on a schedule determined by the DEQ.

Statute: 75-2-211, MCA: preconstruction permit
75-2-217, MCA: operating permit

Rule: ARM 17.8.706; ARM 17.8.1205

3. **Permitting Procedures**

A. Preconstruction Permits

1) The application for an air quality preconstruction permit is not considered filed until all filing requirements are completed. However, if the DEQ fails to notify the applicant within 30 days that an application is incomplete, the application is considered complete.

2) The applicant must provide public notice in a newspaper of general circulation in the area of the proposed facility. The notice must be made 10 days or less before or after the application is submitted. The DEQ will supply the form of the notice.

3) Within 40 days after receipt of the complete and filed application, the DEQ must make a preliminary determination on whether the permit should be issued, issued with conditions, or denied. The department must notify both the applicant and the members of the public who requested notification of its preliminary determination.

4) Excluding a 15-day public comment period, the department has 60 days after a completed and filed application is submitted to the DEQ to notify the applicant of its decision. The time period for notification may be extended for 30 days by written agreement of the department and the applicant. Additional 30 day extensions may be granted by the department at the request of the applicant. If an Environmental Impact Statement is required, final action must be taken within 180 days. (See MONTANA ENVIRONMENTAL POLICY ACT, p. 105.)

5) The applicant may appeal the department's determination to the Board of Environmental Review. Any person adversely affected by the decision to approve or deny the application may also appeal to the Board within 15 days of the department's determination, upon affidavit, explaining the grounds for the appeal.

6) If no appeal is filed, the permit becomes final 15 days after the department's determination. If an appeal is filed, the permit becomes final after any Board or judicial action is final.

Statute: 75-2-211, MCA

Rule: ARM 17.8.706-715

B. Operating Permits

Operating permits must be obtained for all new and existing major sources of air pollution and are subject to the same completeness and appeal procedures as the

preconstruction permits. In addition, the application for an operating permit requires more extensive public notification, including the requirement that the applicant notify surrounding states and the EPA. Operating permits must be renewed every five years.

Statute: 75-2-218, MCA

Rule: ARM 17.8.1203-1207

4. **Fees**

The DEQ assesses an application fee and an operating fee from the applicant to fund the air quality permitting program and to implement and enforce the terms and conditions of the air quality permit.

Statute: 75-2-211, MCA: preconstruction permit
75-2-220, MCA: operating permit

5. **Criteria**

An air quality permit to construct or operate a new or altered air pollution source cannot be issued unless the source is able to comply with the standards, emission limitations and other rules adopted under the Montana Clean Air Act, the applicable regulations and requirements of the federal Clean Air Act and any applicable control strategy contained in the Montana State Implementation Plan. The applicant must also demonstrate that the source will not cause or contribute to a violation of a Montana or national ambient air quality standard.

Rule: ARM 17.8.710

6. **Additional Information**

A. Prevention of Significant Deterioration (PSD)

1) When a major new source of air pollution is proposed to be constructed or modified in an area in compliance with ambient air quality standards, a more stringent review procedure may apply. Such review may include one year of preapplication baseline data, control technology review, air pollution impact modeling and other appropriate measures.

2) The DEQ must: 1) advertise in a newspaper of general circulation in the air quality control region affected by the proposed source that an application has been received, the DEQ's preliminary determination, the degree of increment consumption expected from the source, how written comments may be submitted and how the DEQ's final determination may be appealed to the Board; and 2) forward copies of the notice of public comment to the applicant,

Region VIII Administrator of the Environmental Protection Agency and to area officials and agencies affected by the proposed construction.

Rule: ARM 17.8.801 *et seq.*

B. New Source Review in Nonattainment Areas

Major new or modified sources of air pollution constructing in or near areas that are not attaining ambient air quality standards must meet additional permitting criteria, including obtaining emission offsets and installing control equipment that meets the *lowest achievable emission rate* (LAER).

Rule: ARM 17.8.901-906

C. Medical Waste and Hazardous Waste Incinerators

Permits are required from the DEQ for commercial medical waste and commercial hazardous waste incinerators. (See INCINERATORS - COMMERCIAL MEDICAL WASTE and HAZARDOUS WASTE, p. 125.) Commercial medical waste and commercial hazardous waste incinerators must achieve the lowest achievable emission rates, as identified by DEQ rules, for dioxins, furans, heavy metals and other hazardous air pollutants to prevent risk to public health. The plan for a commercial hazardous waste incinerator must include a scheme for the cessation of burning if site-specific monitoring determines that inversion conditions, as defined by department rule, exist. If the facility is close to a populated area, the department will require the owner or operator of an existing commercial hazardous waste incinerator or an applicant for an air quality permit for a commercial hazardous waste incinerator to provide telemetering service to the department with an immediate notification system activated when emissions approach or exceed permitted limits.

Statute: 75-2-230, 231, MCA

Rule: ARM 17.8.701 et seq.

A disclosure statement is required for the issuance, transfer or alteration of an air quality permit for a commercial medical waste or commercial hazardous waste incinerator. The disclosure statement must provide information on whether, within the five years before the date of application, the applicant has had a record of complaints and convictions for the violation of environmental protection laws. The DEQ may deny an application or impose conditions on a permit based on an applicant's compliance history. In making the decision to deny a permit or impose conditions, the department will consider the number and severity of the violations, the culpability and cooperation of the applicant and other factors.

Statute: 75-2-232, 233, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

D. Variances

A person may apply to the Board of Environmental Review for an exemption from applicable rules governing emissions. The variance may be issued if the Board finds there will be no adverse impact on public health or safety, and that compliance with the rules would be an undue hardship on the applicant. The length of the variance is at the Board's discretion and the variance may be renewed. An applicant for a variance must submit a sum of two percent of the cost of equipment needed to bring the facility into compliance with the rule from which the exemption is sought, but not less than $500 nor more than $80,000.

Statute: 75-2-212, MCA

Rule: ARM 17.8.120

AIR QUALITY PERMITS: FEDERAL

Federal air quality permits are only required for activities on the state's seven reservations. The state has responsibility for permitting all other facilities, including federal facilities. Air pollution sources in Missoula and Yellowstone County are an exception. Those counties have been granted authority to run their own air quality permitting programs.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

GEOTHERMAL LEASES

Development of geothermal resources will generally require the appropriation of water (see WATER APPROPRIATIONS - GROUND WATER, p. 155), and may require a Certificate of Environmental Compatibility (see MAJOR FACILITY SITING ACT, p. 44). For general information, contact the Montana Department of Environmental Quality.

GEOTHERMAL LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state-owned lands, including the beds of navigable streams and the beds of navigable bodies of water, for the purposes of prospecting, exploration, well construction or production of geothermal resources.

Statute: 77-4-101 *et seq.*, MCA

Rule: ARM 36.25.401 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Permitting Procedures

1) A person wishing to lease state lands for geothermal operations must submit a completed application on a form supplied by the Montana Department of Natural Resources and Conservation which contains an adequate description of the land. A water right may also be required. (See WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 156; and WATER APPROPRIATIONS - GROUND WATER, p. 155).

2) Sale of geothermal leases occurs after receipt of a sufficient number of applications to warrant a sale.

3) Notice of sale must be published in a geothermal trade journal or in two newspapers of general circulation in Lewis and Clark County. Notice must be published for four weeks preceding the sale date. The sale may be offered by competitive bid.

4) A minimum bond of $2000 is required to protect the state's interest in the resource.

5) The term of a geothermal lease is 10 years. Compensation must be paid to the surface lessee, if any, for damage to the surface or the lease holder's interest.

Rule: ARM 36.25.404

3. Fees

The fee for a geothermal lease application is $25. Rental and royalty charges are determined by the Board but are not less than $1 per acre, not less than 10 percent of the amount or value of steam, heat or energy produced and not more than 5 percent of any byproduct.

Rule: ARM 36.25.404 and 406

HAZARDOUS SUBSTANCES - COMMUNITY RIGHT TO KNOW

1. Types of Activities Regulated

The purpose of the federal Emergency Planning and Community Right to Know Act (EPCRA--also known as SARA Title III) is to provide local governments and the public with information about hazardous substances in their communities in order to encourage and support facility planning in the event of an accidental release or spill.

Under the EPCRA, the governor of each state appoints a State Emergency Response Commission (SERC), which in turn appoints Emergency Planning Districts and a Local Emergency Planning Commission (LEPC) for each district. In Montana, each county is a district, thus there are 56 districts and LEPCs. A person or facility with designated types and quantities of hazardous or toxic substances must compile information on the chemicals it uses, stores and releases into the environment and provide this information to the SERC, the LEPC and the local fire department. The LEPCs receive and maintain information, assist in facility planning and develop a district plan to prepare for chemical emergencies.

Rule: 40 C.F.R. § 301 *et seq.*

Contact: LOCAL EMERGENCY PLANNING COMMISSION

U.S. ENVIRONMENTAL PROTECTION AGENCY
Washington D.C.
EPA Hotline: 1-800-535-0202

DEPARTMENT OF ENVIRONMENTAL QUALITY
Director's Office

HYDROELECTRIC POWER DEVELOPMENT

1. Types of Activities Regulated

Nonfederal hydroelectric power plants on navigable waters of the United States, those which occupy federal land or utilize water power from a government dam, or those which, under certain circumstances, affect the interest of interstate or foreign commerce, must be licensed by the Federal Energy Regulatory Commission (FERC). *Navigable waters* of the United States includes virtually all waters in Montana and the other 49 states. As a result, FERC is the lead agency in the licensing of new hydropower facilities and in the re-licensing of existing facilities. FERC, acting under the authority of the Federal Power Act (as amended by the Electric Consumers Protection Act of 1986)

and agency rules, processes and evaluates the federal applications required for all hydropower dams, diversions and other hydropower developments; reviews and analyzes environmental impacts of hydropower projects and determines appropriate mitigation and enhancement measures; and sets requirements governing the sale of the hydropower generation at the wholesale level.

There are six primary subject areas where state regulation of hydroelectric power must be considered in addition to the federal requirements under FERC. These areas (and the responsible state agencies) are:

1) Water rights permits: Contact the Montana Department of Natural Resources and Conservation (DNRC), Water Rights Bureau, (see WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 156).
2) 310 permit for altering a perennial stream: Contact the DNRC, Conservation Districts Bureau or the local Conservation District supervisor (see CONSERVATION DISTRICTS, p. 2).
3) Water quality certification under Section 401 of the Clean Water Act: Contact the Montana Department of Environmental Quality.
4) Fish and wildlife impact evaluation (no permit required): Contact the Montana Department of Fish, Wildlife and Parks regional office.
5) Hydropower projects on state land (see below).
6) Hydropower projects on state-owned dams (see below).

In addition, a 404 permit is required from the U.S. Department of the Army, Corps of Engineers for any dredge and fill activity or other work affecting United State's waters or wetlands. Contact the U.S. Department of the Army, Corps of Engineers, (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11).

Statute: Federal Power Act, 16 U.S.C. § 791a *et seq.*

Contact: FEDERAL ENERGY REGULATORY COMMISSION
Office of Hydropower Licensing
Washington D.C.

FEDERAL ENERGY REGULATORY COMMISSION
Regional Office
Portland, Oregon

HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may grant leases for construction and operation of hydroelectric power sites on state lands to any person, corporation or municipality. (see HYDROELECTRIC POWER DEVELOPMENT, p. 37).

Statute: 77-4-201 *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

2. Application Requirements

An application must be presented to the Board for lease or license of a power site on state lands. A preliminary examination of the proposed site's value for development is required. If the investigation requires further proceedings, the Board must publish a notice regarding the proposed lease or license for six weeks in two state newspapers, one of which must be from the affected area. The Board, at its meeting on the proposed site, may consider the original application along with any other filed applications. The Board has the power to reject any or all bids. Acceptance depends on which offer is considered to be the most advantageous to the state. The Board of Land Commissioners may establish any reasonable restrictions and regulations in the lease or license to protect the state and its people. Bid preferences are given to municipalities. The term of the lease cannot exceed 50 years.

Statute: 77-4-203 through 211, MCA

HYDROELECTRIC DEVELOPMENT AT STATE-OWNED DAMS

1. Types of Activities Regulated

The Montana Department of Natural Resources and Conservation (DNRC) may lease sites at state water projects which it determines to be feasible for energy generation and in the best interest of the people of Montana.

2. Application Procedures

1) The DNRC must study the economic and environmental feasibility of construction and operation of a small-scale hydroelectric power generating facility on each of its dams, and periodically update the studies. If the department determines that hydroelectric generation at a state-owned dam is feasible based on the study, the department must publish an advertisement soliciting lease applications.

2) Following publication, individuals, public utilities and electric cooperatives have 180 days to submit applications to the department. Applications must include a statement of the capability of the applicant to achieve the annual production output estimated by the department, the estimated time to make the project operational, the bid amount of the royalty and any other information that the department requests.

3) The department will hold a hearing to examine all applications, and must decide whether to accept or reject applications within 180 days after the close of the application period.

4) Any necessary federal licenses or permits must be held by the DNRC.

5) The duration of the lease may not exceed the term of the federal permits and may in no case exceed 55 years.

6) If no acceptable applications are received, the department may reject all bids and proceed to develop the hydroelectric generation facility.

Statute: 85-1-501 through 514, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division

INCINERATORS - COMMERCIAL MEDICAL WASTE

Permits for commercial medical waste incinerators are required under both the Montana Clean Air Act (see AIR QUALITY PERMITS, p. 31); and the Montana Solid Waste Management Act (see SOLID WASTE - HAZARDOUS WASTE, p. 122). The Board of Environmental Review also has the authority to adopt specific rules regulating medical waste incinerators and to establish additional permit requirements because of the potential health risks from associated substances. The definition of commercial medical waste incinerator does not include hospital or medical facilities that primarily incinerate medical waste generated onsite.

Statute: 75-2-231, MCA.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

INCINERATORS - HAZARDOUS WASTE

See SOLID WASTE - HAZARDOUS WASTE, INCINERATORS, p. 125.

INDOOR EMISSIONS - OCCUPATIONAL NOISE

ASBESTOS CONTROL

1. Types of Activities Regulated

The Montana Department of Environmental Quality (DEQ) has the statutory authority to approve course work for accreditation of persons engaged in asbestos abatement projects, for accreditation of persons engaged in an asbestos-related occupation and for control and issuance of asbestos project permits.

Statute: 75-2-501 *et seq.*, MCA

Rule: ARM 17.74.301-405

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Planning, Prevention and Assistance Division
Technical and Financial Assistance Bureau

2. Accreditation Requirements

A person seeking accreditation as an asbestos inspector, an asbestos management planner, an asbestos project designer, an asbestos abatement contractor, an asbestos abatement supervisor, or an asbestos abatement worker must submit a properly completed application form, along with a fee, to the DEQ and complete an asbestos-related training course approved by the department. Accreditation for each of the above asbestos-type occupations must be renewed annually.

Statute: 75-2-502 and 511, MCA

Rule: ARM 17.74.314-316

3. Permitting Requirements and Procedures

A. No person in charge of an asbestos abatement project may perform work on any asbestos-containing material which is an integral part of a continuous surface exceeding 3 square feet or 3 feet of thermal system insulation per year without a permit.

B. Persons applying for a permit must submit, by certified mail, an application to the DEQ. The application should include 1) a description of the project design for the abatement project, 2) a signed statement that all work will be performed according to federal standards, 3) a list of accredited workers, 4) a signed statement that the removed asbestos will be properly disposed of, and 5) the required fee.

Statute: 75-2-501 *et seq.*, MCA

Rule: ARM 17.74.335

4. **Fees**

All persons seeking accreditation or application renewal for an asbestos-related occupation must pay a $125 fee, except for asbestos workers, who must pay a $30 fee. The annual asbestos abatement project permit fee for large facilities is $1,500. Other project fees are based on the percentage of the contract volume.

Statute: 75-2-503 and 511, MCA

Rule: ARM 17.74.401

INDOOR EMISSIONS - OCCUPATIONAL NOISE

1. **Types of Activities Regulated**

The Montana Department of Environmental Quality (DEQ) has the authority to regulate occupational exposure to noise and certain hazardous chemicals in work places that are under the jurisdiction of state and local governments. The federal Occupational Safety and Health Administration (OSHA) regulates noise and exposure to certain hazardous chemicals in all privately owned work places. The DEQ does not require permits for the operation of machinery that may emit pollutants into an enclosed work area.

Statute: 50-70-112, MCA

Rule: ARM 17.74.101: occupational noise
ARM 17.74.102: occupational air contamination

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Planning, Prevention and Assistance Division
Technical and Financial Assistance Bureau

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

RADIATION CONTROL

1. Types of Activities Regulated

The U.S. Nuclear Regulatory Commission licenses users of byproduct materials, source materials and special nuclear materials in Montana. A number of record-keeping and handling requirements apply.

The Montana Department of Public Health and Human Services (DPHHS) has statutory authority to register and regulate machine sources of ionizing radiation (i.e., x-rays, accelerators, etc.). Registration of these machines is required of the owner after acquisition of the machine and prior to its use. Registration forms are available from the department. A number of record-keeping and use requirements also apply.

In addition, the DPHHS has statutory authority to license users of naturally occurring and electronically produced radionuclides but does not operate a licensing program at this time.

Statute: 50-79-201 *et seq.*, MCA

Rule: ARM 17.70.201-205, 17.70.301-331

Contact: NUCLEAR REGULATORY COMMISSION

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Quality Assurance Division
Licensure Bureau

RADON CONTROL

1. Types of Activities Regulated

Prior to selling any *inhabitable* property, the seller or their agent must provide a designated disclosure statement (see 75-3-606, MCA) alerting the buyer to the existence of naturally occurring radon gas in some buildings in Montana and the associated health risks. Whenever a seller knows that a building has been tested for radon gas, the seller must provide the buyer with a result of the test and evidence of any subsequent mitigation or testing.

A person who wishes to be publicly listed by the Montana Department of Environmental Quality in a radon-related occupation must pass a proficiency examination administered by the U.S. Environmental Protection Agency.

Statute: Montana Radon Control Act; 75-3-601 *et seq.*, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Planning, Prevention and Assistance Division
Technical and Financial Assistance Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
Regional Office, Denver, CO

MAJOR FACILITY SITING

1. Types of Activities Regulated

A Certificate of Environmental Compatibility is required from the Department of Environmental Quality (DEQ) for certain major facilities that generate or transmit electricity, produce gas derived from coal or liquid hydrocarbons or transmit these fuels and other substances by pipeline, enrich uranium minerals, utilize or convert coal or utilize geothermal resources. Associated facilities such as transportation links, aqueducts, diversion dams, transmission substations and other facilities associated with the production or delivery of energy are included. Crude oil and natural gas refineries and facilities subject to the Montana Strip and Underground Mine Reclamation Act are excluded. Federally owned or controlled facilities must satisfy the substantive criteria of the Siting Act. Prior to construction, the applicant must also receive the necessary permits from the DEQ for air emissions; wastewater discharges; the generation, transportation, storage or disposal of hazardous wastes; and other relevant permits administered by the department. Special procedures apply for facilities also subject to the jurisdiction of the Federal Energy Regulatory Commission.

Statute: Montana Major Facility Siting Act, 75-20-101 *et seq.*, MCA

Rule: ARM 17-20-101, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. Application Requirements

An applicant for a certificate under the Montana Major Facility Siting Act must file an application with the DEQ. The information required varies according to the size and type of the facility, but generally includes a description of the proposed facility and its location, baseline data, alternate sites and in some instances, a statement of need for the facility. Copies must be sent to the relevant local government authorities and to a number of state agencies, including the Environmental Quality Council and the Departments of Transportation; Commerce; Fish, Wildlife and Parks; Natural Resources and Conservation; and Public Service Regulation.

Statute: 75-20-211, MCA

Rule: ARM 17.20.801-807

3. **Permitting Procedures**

A. Time Requirements

1) The DEQ must notify an applicant within 60 days that the application is either complete or incomplete. If the application is incomplete and the applicant corrects it for resubmission, the department then has 30 days to advise the applicant that the application is complete and accepted.

2) The DEQ must issue a decision that includes the department's evaluations, recommendations and an Environmental Impact Statement, if any, (see MONTANA ENVIRONMENTAL POLICY ACT, p. 105) within one year of the date of acceptance of a completed application. Before issuing a decision, the department will provide an opportunity for public review and comment. Smaller projects that do not pose the risk of significant environmental impact are reviewed through an Environmental Assessment with a decision deadline of six months. The DEQ determines compliance with all standards, permit requirements and implementation plans under its jurisdiction for the proposed location or any proposed alternate location. Those determinations are conclusive with respect to the requirements.

3) Executive branch state agencies receiving a copy of the application form must also report to the DEQ on the impact of the proposed facility in the agency's area of expertise.

4) Construction of a generation/conversion facility must begin within six years from the date of certification. Linear facilities must be completed within 10 years, except for transmission lines less than 30 miles in length, which must be completed within 5 years.

B. Appeal of Denial

Decisions of the DEQ may be appealed to the Board of Environmental Review within 30 days under the contested case provisions of the Montana Administrative Procedures Act (see p. 104). Decisions of the Board may be appealed to a state district court.

Statute: 75-20-216, 219, 223, 231, 301, 303, 304 and 406, MCA

4. **Fees**

The applicant for a certificate under the Montana Major Facility Siting Act is required to deposit a filing fee based on the estimated cost of the project in an earmarked revenue fund for use by the DEQ to administer the act. The DEQ may contract with the applicant for payment of the fee or the applicant must pay the fee in installments. A fee schedule is listed in the statute.

Statute: 75-20-215, MCA

5. Criteria

The DEQ must issue an opinion and render a decision either granting or denying an application as filed, or granting it with conditions or modifications. The department must grant a certificate to a generation facility if it does not pose the risk of undue harm to people or the environment. For a linear facility, the department's decision is based on a number of factors, including the need for the facility; the nature of probable environmental impacts considering the state of available technology and the nature and economics of the alternatives; that the facility minimizes adverse environmental impacts compared to the alternatives; that the location of the proposed facility conforms to applicable state and local laws; that the facility will serve the public interest, convenience and necessity; that the DEQ has issued all necessary decisions, opinions, orders, certifications and permits; and that the use of public lands for location of the facility is evaluated and public lands are selected whenever their use is as economically practicable as the use of private lands.

The DEQ must waive the requirement for alternative site studies and the finding of minimum adverse environmental impact when a facility is proposed for construction in a county that has experienced severe unemployment problems because of plant closure.

Statute: 75-20-301 and 304, MCA.

6. Exemption

A person who, before January 1, 1997, has filed a complete and correct air quality permit application for a power plant capable of generating less than 150 megawatts is not subject to the provisions of the Major Facility Siting Act.

7. Additional Information

The DEQ may not issue a certificate to construct a nuclear facility in Montana unless it meets the stringent criteria specified in 75-20-1203, MCA. All nuclear facilities must be subject to a public referendum in order to be approved.

PIPELINES

Pipelines with inside diameters of at least 17 inches that are 30 miles long are regulated by the Montana Major Facility Siting Act. Aspects of other pipeline projects may be covered by statutes listed under UTILITIES (p. 142) and MAJOR FACILITY SITING (p. 44).

WATER POLLUTION DISCHARGE PERMITS

Industrial and commercial operations often require water pollution permits from the Montana Department of Environmental Quality. (See: WATER QUALITY PERMITTING, p. 160.)

WIND ENERGY

1. Types of Activities Regulated

A person constructing a wind energy facility must first obtain an easement from the appropriate property owner to ensure an undisturbed flow of wind across that property. If the affected property owner is the Montana Department of Natural Resources and Conservation, the use of that land may be subject to permits, leases or easements from the department and approval from the Board of Land Commissioners.

Associated activities that affect air or water quality may require permits from the Montana Department of Environmental Quality (DEQ) (see AIR QUALITY PERMITS, p. 31; and WATER QUALITY PERMITTING, p. 160). Activities that affect migratory bird populations are subject to the provisions of the federal Migratory Bird Treaty Act (see p. 80).

Certain energy generating facilities are subject to the provisions of the Montana Major Facility Siting Act, (see MAJOR FACILITY SITING, p. 44) and require the submission of an application to the DEQ describing the proposed location, baseline data and alternate sites.

Statute: 70-17-303, MCA: wind energy easement
77-1-301, MCA: DNRC easements, licenses and permits
Montana Major Facility Siting Act, 75-20-101 *et seq.*, MCA

Rule: ARM 36.25.104 *et seq.*: DNRC easements, licenses and permits
ARM 17.20.101 *et seq.*: facility siting

Contact: PROPERTY OWNER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

U.S. FISH AND WILDLIFE SERVICE
Montana Office, Helena

FOOD PROCESSING AND SERVICES

DAIRIES

1. Types of Activities Regulated

A license for the operation of a dairy must be obtained from the Montana Department of Livestock (DOL). All licenses must be renewed annually by January 31st following the date of expiration, December 31st. Prior to construction, remodeling or relocation of a dairy, detailed plans must be submitted to the DOL for review and approval. Also prior to construction, the appropriate permits must be obtained from the Montana Department of Environmental Quality for any discharge of wastes into ground or surface waters (see WATER QUALITY PERMITTING, p. 160) or for the release of air pollutants (see AIR QUALITY PERMITS, p. 31). Local health agencies may investigate or sample the dairies in their area.

Statute: 81-21-102 through 106, MCA
81-22-201 through 209, 305 and 403, MCA

Contact: DEPARTMENT OF LIVESTOCK
Meat, Milk and Egg Inspection Division

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau
Water Protection Bureau

2. Fees

The license fees for operation of a dairy range from $5 to $50.

Statute: 81-21-102 and 104, MCA
81-22-208, MCA

GUEST RANCHES/OUTFITTING AND GUIDE FACILITIES

1. Types of Activities Regulated

On July 1, 1998, or after the completion of the negotiated rulemaking process, whichever is later, a license will be required from the Department of Public Health and Human Services (DPHHS) for certain guest ranches and outfitting and guide facilities to ensure a safe and adequate supply of drinking water, an adequate sanitary and refuse disposal system and to address food safety concerns. A guest ranch or outfitting and guide facility license is required for establishments that on a year-round basis

serve 9 to 24 guests at one time or on a seasonal basis (less than 120 days in a calendar year) serve 9 to 40 guests at one time. A food purveyor license is not required for establishments serving food only to registered guests.

Statute: 50-50-102(8)(c), 50-51-102, 103, 201 and 207, MCA

Contact: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Food and Consumer Safety Section

2. Application Requirements

Separate license applications are required for establishments at different locations. Before the DPHHS may issue a license, the license application must be approved by the local health officer or sanitarian in the county where the facility is located.

Statute: 50-51-201, MCA

Contact: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Food and Consumer Safety Section

LOCAL HEALTH DEPARTMENT

3. Fees

The annual fee for a guest ranch or outfitter and guide facility license is $40. The late renewal fee is $25. Licenses expire each year on December 31st.

Statute: 50-51-204, MCA

SLAUGHTERHOUSES - MEATPACKING PLANTS

1. Types of Activities Regulated

An annual license, which expires on December 31st of the year issued, is required from the Montana Department of Livestock for a slaughterhouse or meatpacking plant. The Montana Department of Environmental Quality retains jurisdiction over insuring that slaughterhouses and meatpacking plants have approved water supplies and that wastes are disposed of properly. Prior to construction, a Montana Pollution Discharge Elimination System (MPDES) or Montana Ground Water Pollution Control System (MGWPCS) permit is needed if there is a discharge of wastes into either ground or surface waters. (See WATER QUALITY PERMITTING, p. 160.)

Statute: 81-9-201 and 202, MCA

Contact: DEPARTMENT OF LIVESTOCK
Meat, Milk and Egg Inspection Division

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. **Fees**

The annual license fee for operating a slaughterhouse or meatpacking plant is $25.

FORESTRY

BURNING PERMITS

1. **Types of Activities Regulated**

A. Burning Permits: During the forest fire season (May 1st - September 30th, or as extended), permits are required from the recognized protection agency for the area (county, state or federal) to ignite or set a forest fire, slash-burning fire, land-clearing fire, debris-burning fire or an open fire within forest lands. A permit is not required in a designated, improved campground.

B. Air Quality Permits for Burning: Air quality permits for major burns (an open burn of approximately 100 acres) are required from the Montana Department of Environmental Quality (DEQ). All open burners, major and minor, must comply with restrictions issued on the Ventilation Hotline (1-800-225-6779) from September through November. Open burning is prohibited by the DEQ from December through February. See AIR QUALITY PERMITS, p. 31.

The DEQ may issue conditional air quality open burning permits for certain prohibited materials, including clean untreated wood waste at landfills and industrial sources, the burning of prohibited materials for the training of firefighters, or open burning in emergency situations if certain departmental requirements set forth in ARM 17.8.611-612 are followed.

C. Local authorities may require burning permits in addition to the state permit. Several counties require permits to burn any time throughout the year to protect air quality and prevent fires.

Statute: 7-33-2205 and 76-13-121, MCA

Rule: ARM 17.8.601 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Land and Unit Offices in Anaconda, Billings, Bozeman, Conrad, Dillon, Glasgow, Greenough, Hamilton, Havre, Helena, Kalispell, Lewistown, Libby, Miles City, Missoula, Olney, Plains and Swan Lake (see APPENDIX 2)

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Fire and Aviation Management Bureau

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

COUNTY SHERIFF OR BOARD OF COUNTY COMMISSIONERS

2. **Fees**

The fees for open burning permits are established by rule. Contact the DEQ.

CABIN SITES

1. **Types of Activities Regulated**

Leases for cabin sites on state forest lands may be obtained from the Montana Department of Natural Resources and Conservation, Trust Land Management Division. Department rules govern the use and maintenance of these sites.

Rule: ARM 36.11.101

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Special Use Management Bureau

HAZARD REDUCTION

1. **Types of Activities Regulated**

Fire hazard reduction agreements and the posting of a bond and administrative fees with the Montana Department of Natural Resources and Conservation (DNRC), are required before conducting any timber cutting or timber stand improvements on private lands, or right-of-way clearing on private forest lands. The department will then issue a certificate of clearance and return the bond when the agreement for reduction of fire hazard has been executed. The DNRC must be notified at least 10 days prior to any clearing for right-of-way.

Statute: 76-13-401 through 414, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Land and Unit Offices in Anaconda, Billings, Bozeman, Conrad, Dillon, Glasgow, Greenough, Hamilton, Havre, Helena, Kalispell, Lewistown, Libby, Miles City, Missoula, Olney, Plains and Swan Lake (see APPENDIX 2)

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Service Forestry Bureau

PORTABLE SAWMILLS

1. Types of Activities Regulated

A license is required from the Montana Department of Natural Resources and Conservation (DNRC) for a person or corporation to operate a portable sawmill on private, state or federal forest lands.

Statute: 76-13-501 through 506, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Service Forestry Bureau

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Land and Unit Offices in Anaconda, Billings, Bozeman, Conrad, Dillon, Glasgow, Greenough, Hamilton, Havre, Helena, Kalispell, Lewistown, Libby, Miles City, Missoula, Olney, Plains and Swan Lake (see APPENDIX 2)

2. Application Requirements

An applicant for a license to operate a portable sawmill must apply to the DNRC in writing, stating name, location of proposed sawmill (section, township, range), capacity of sawmill, estimated amount of stumpage to be cut and anticipated date of initial operation.

Statute: 76-13-503(l), MCA

3. Fees

The application for a portable sawmill license requires a $2 fee.

Statute: 76-13-503(2), MCA

4. Criteria

If all application information is in order, the DNRC will issue a portable sawmill permit lasting as long as the mill remains in its original setting unless the sawmill violates any state forest protection laws.

REMOVAL OF NONCOMMERCIAL OR SMALL QUANTITY TIMBER

1. Types of Activities Regulated

Permits are required from the Montana Department of Natural Resources and Conservation for the removal of dead or inferior timber from state forests. If the dead or inferior timber is on county forests, a permit is required from the Board of County Commissioners. Permits are issued at a nominal charge to residents of a county to use this timber for fuel and domestic purposes.

Permits may also be issued, without advertising the sale, to Montana citizens for commercial cutting, at commercial rates, for timber on state or county forests in quantities less than 100,000 board feet, or in cases of emergency due to fire, insects or blow-down, in quantities less than 200,000 board feet.

Farmers, ranchers and prospectors may obtain permits for timber cutting on state forests in quantities not to exceed 25,000 board feet for domestic use in the repair and development of the farm or ranch.

Both the Bureau of Land Management and the Forest Service require permits for fuel wood and Christmas tree cutting on BLM lands and national forest lands.

Statute: 7-8-2608 and 2609 and 77-5-211 through 213, MCA

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Resource Area or Field Office

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

2. Fees

Fees for domestic-use permits on state lands are set by the Board of Land Commissioners. Contact the DNRC to determine the required fees.

Fees for commercial cutting of small quantities of timber on state lands are set by the DNRC or established by the department through competitive bidding.

Statute: 77-5-213, MCA

STREAMSIDE MANAGEMENT ZONES

1. Types of Activities Regulated

While no permit is required to conduct forest practices in streamside management zones, special management standards do apply within and to varying widths on either side of a stream, lake or other water body. The practices of broadcast burning, clearcutting, road construction (except when necessary to cross a stream or wetland), the operation of vehicles, use of hazardous or toxic materials and the deposition of slash or sidecasting of road materials are prohibited, except as provided for by alternative practices approved by the Montana Department of Natural Resources and Conservation.

Statute: 77-5-301 through 307, MCA

Rule: ARM 36.11.301 *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Service Forestry Bureau

TIMBER HARVESTS/BEST MANAGEMENT PRACTICES

1. Types of Activities Regulated

Timber owners and operators must notify the Montana Department of Natural Resources and Conservation (DNRC) prior to conducting a forest practice. Forest practices include timber cutting, road construction or reconstruction, site preparation, reforestation or management of logging slash.

Within 5 working days of receiving notification of a forest practice, the DNRC will provide the operator with information on forestry Best Management Practices (BMPs) and issue a notice that the forest practice may proceed or request an on-site consultation. The department encourages the use of Best Management Practices to protect and conserve water, range, soil and forest resources.

Statute: 76-13-101, 104(3) and 131 et seq., MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Service Forestry Bureau

TIMBER SALES

1. Types of Activities Regulated

Timber sales on state forest lands are administered by the Montana Department of Natural Resources and Conservation (DNRC) and final approval is granted by the Board of Land Commissioners.

2. Application Requirements

A. Timber proposed for sale in excess of 100,000 board feet must be advertised in a newspaper in the county in which the timber is located for a period of at least 30 days, during which time the DNRC can receive sealed bids up to the hour of the bid closing, as specified in the notice.

B. In cases of emergency due to fire, pest or blow-down or in cases when the department must act immediately to take advantage of access granted by permission of an adjoining landowner, a sale of up to 1 million board feet may be advertised for not less than 10 days. In cases when the department must act immediately to take advantage of access granted by permission of an adjoining landowner and there is only one potential buyer with legal access, the department may negotiate a sale of timber not in excess of 1 million board feet without offering the timber for bid if the sale is for fair market value.

C. On the award of sale, the purchaser must execute a formal agreement, approved by the Board, which describes the area where the timber is to be cut, the approximate quantity to be cut--by species and the rate for each product of each species. The purchaser also is required to furnish a bond to the state in an amount equal to at least 5 percent of the estimated value of timber sold.

Statute: 77-5-201 *et seq.*, MCA

3. Fees

Line timber must not be sold for less than fair market value. The minimum value is appraised under the direction of the department and approved by the Board of Land Commissioners. The Board of Land Commissioners also approves fees for forest improvement on state lands. Contact the DNRC for the fee schedule.

Statute: 77-5-204(4), MCA

4. Additional Information

A. Lands classified as timberlands are not subject to sale, but the timber on those lands may be sold. (See STATE LANDS, p. 9.)

Statute: 77-2-303, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

BOARD OF LAND COMMISSIONERS

B. A detailed bill of sale is required before more than five coniferous trees may be transported over state highways. Also, transportation of more than 200 pounds of boughs from coniferous trees requires written authorization of the owner of the boughs.

Statute: 76-13-601, MCA

HIGHWAYS - TRANSPORTATION

FERRIES

1. Types of Activities Regulated

The Board of County Commissioners may lay out, maintain, control and manage county ferries. Ferries between two counties must be approved by the Board of County Commissioners.

Statute: 7-14-2801, *et seq.* MCA

Contact: BOARD OF COUNTY COMMISSIONERS

2. Application Requirements

Application to operate a ferry between two counties must be made to the Board of County Commissioners of the county situated on the left bank descending the affected river, creek or slough. The application must contain a description of the proposed landings, names of the owners of the landings and notice that the application has been served at least 10 days prior to the date of application on those landowners not participating in the application. Notice of the proposed ferry must be published by the applicant in a local newspaper and posted in three public places for four consecutive weeks. A hearing is required after notice. The owner of the land on either bank of the waters to be crossed is entitled to preference in procuring authority to construct a ferry, with the owner on the left bank descending having preference over the owner on the right bank.

Statute: 7-14-2821 through 2824, MCA

HIGHWAY ADVERTISING

1. Types of Activities Regulated

A permit is required from the Montana Department of Transportation (MDT) for placing outdoor advertising signs along the right-of-way of interstate and primary highways. Standards for maintenance of permitted advertising are outlined in the statutes and rules.

Statute: Outdoor Advertising Act, 75-15-101 *et seq.*, MCA

Rule: ARM 18.6.201-272

Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices in Billings, Bozeman, Butte, Glendive, Great Falls, Havre, Kalispell, Lewistown, Miles City, Missoula and Wolf Point (see APPENDIX 2)

2. Application Requirements

The application for an outdoor advertising permit must be completed on forms furnished by the MDT. The owner of the land affected must agree to the erection or maintenance of the advertising sign.

Statute: 75-15-122(1), MCA

Rule: ARM 18.6.211

3. Fees

The MDT requires an initial application fee and a fee for a renewable three year permit based on the square footage of the sign.

Statute: 75-15-122(1), MCA

Rule: ARM 18.6.211 and 18.6.214

Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices in Billings, Bozeman, Butte, Glendive, Great Falls, Havre, Kalispell, Lewistown, Miles City, Missoula and Wolf Point (see APPENDIX 2)

HIGHWAY APPROACH PERMITS

1. Types of Activities Regulated

Permits are required from the Montana Department of Transportation (MDT) for the construction of driveways and other approaches intersecting public streets and highways.

Statute: 60-2-201, MCA

Rule: ARM 18.5.104 *et seq.*

Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices in Billings, Bozeman, Butte, Glendive, Great Falls, Havre, Kalispell, Lewistown, Miles City, Missoula and Wolf Point (see APPENDIX 2)

2. Application Requirements

Application for an approach permit must be made by the owner or contract purchaser. These permits are only for the purpose of securing or changing access to property. A brief description of the

proposed work, location and a plot plan must be included in the permit application. No more than two approaches will be approved for any single property tract or business establishment. Exceptions may be made where the frontage exceeds 500 feet or special conditions exist that may benefit the traveling public.

Rule: ARM 18.5.104, 105

3. **Permitting Procedures**

A. A request for a permit to construct or reconstruct any residential, commercial, industrial, public street or road approach should be made to the chief of the MDT Field Maintenance Bureau having jurisdiction over the area.

B. Upon receipt of the request, the chief of the Field Maintenance Bureau will arrange for a meeting with the applicant in order to discuss the proposed approach.

C. Field Maintenance Bureau personnel and the Division Traffic Engineer have authority to approve curb cuts and public and private approaches, subject to all access control resolutions and/or MDT ownership of same.

Rule: ARM 18.5.104

HIGHWAY ENCROACHMENTS - EASEMENTS - OCCUPANCY PERMITS

1. **Types of Activities Regulated**

Permits are issued by the Montana Department of Transportation (MDT) for construction or maintenance of encroachments on or under highway rights-of-way. Encroachments include all private structures, devices and facilities placed on, over or under the right-of-way. These include ditches, dikes, flumes, canals or bridges and water, sewer, electric, natural gas, communications and cable television lines. Written permission is required from the Board of County Commissioners for any excavation or construction across county highways. Permission for easements and encroachments on or across state highway rights-of-way may be obtained from the MDT.

2. **Permitting Procedures**

The appropriate permit may be obtained from one of the five MDT district offices (see APPENDIX 2).

Statute: 7-14-2139, MCA

Rule: ARM 18.7.101-108

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF TRANSPORTATION
Engineering Division; or
District and Area Offices in Billings, Bozeman, Butte, Glendive, Great Falls, Havre, Kalispell, Lewistown, Miles City, Missoula and Wolf Point (see APPENDIX 2)

See also HIGHWAY UTILITY EASEMENTS, p. 142.

ROADSIDE JUNKYARDS

1. Types af Activities Regulated

A license is required from the Montana Department of Transportation for a junkyard situated within 1000 feet of a primary or interstate highway. Junk includes scrap metals, rags, debris, etc. Junkyards must be screened from view or not visible from a main-traveled course of a highway and must be located in an area zoned industrial or that is determined by the MDT to be industrial from actual uses. MOTOR VEHICLE WRECKING FACILITIES (see p. 127) and garbage dumps or sanitary landfills (see SOLID WASTE DISPOSAL, p. 129) are licensed by the Department of Environmental Quality.

Statute: 75-15-201, MCA

Contact: DEPARTMENT OF TRANSPORTATION
Engineering Division
Right of Way Bureau

HUNTING - FISHING - TRAPPING - WILDLIFE PROTECTION

The Montana Department of Fish, Wildlife and Parks is charged with the regulation of fishing, hunting, trapping and wildlife protection and issues all hunting, trapping and fishing permits and licenses in Montana, with the exception of aerial hunting permits (Montana Department of Livestock, see below) and licenses for outfitters and professional guides (Montana Department of Commerce, see p. 69).

The Fish, Wildlife and Parks Commission establishes hunting and fishing seasons and restricts hunting, trapping and fishing in certain areas.

Depending on the type and location of an activity, more than one permit may be required. For example, anyone hunting on a shooting preserve must have the appropriate hunting license as well as a shooting preserve permit. Please check all sections that may apply to a proposed activity, and contact the appropriate state agency.

COMMERCIAL ACTIVITIES

AERIAL HUNTING OF PREDATORY ANIMALS

1. Types of Activities Regulated

An individual planning to conduct an aerial hunt must first obtain a permit from the Montana Department of Livestock (DOL), with the exception of 1) those government employees acting within the scope of their employment, or 2) resident landowners hunting on their own property who have followed the notification requirements of the DOL.

Statute: 81-7-101, 81-7-501 and 81-7-505, MCA

Contact: DEPARTMENT OF LIVESTOCK
Brands Enforcement Division
Predator Control Bureau

2. Application Requirements

To obtain an aerial hunting permit, an applicant must complete the required forms available from the DOL, Predator Control Bureau.

Qualifications: Permits will be issued only to individuals resident and domiciled in Montana. Nonresident permits may be authorized by the Board of Livestock. Applicants must also be currently licensed as pilots by the Federal Aviation Administration, must minimally have a private pilot's

license and 200 flying hours and the applicant and their aircraft must meet Federal Aviation Administration and Montana Department of Transportation requirements.

Rule: ARM 32.22.102

Contact: DEPARTMENT OF LIVESTOCK
Brands Enforcement Division
Predator Control Bureau

DEPARTMENT OF TRANSPORTATION
Aeronautics Division

3. Fees

The DOL issues permits valid for a period of one to three years. Permit fees are $30 for less than one year, $40 for one to two years and $50 for two to three years. The DOL may also issue self-renewing multiple year permits dependant upon compliance with the rules and state law.

Rule: ARM 32.22.103

CAPTIVE BREEDING OF RAPTORS

1. Types of Activities Regulated

The Montana Department of Fish, Wildlife and Parks requires a permit for the captive breeding of raptors. (A raptor is a bird of prey with a notched beak and sharp talons; for ex., a hawk or an owl.) The department may grant a permit whether or not the permittee is a licensed falconer. Captive breeding permits are not transferrable and may be revoked at any time for violations of the conditions of the permit or regulations of the Fish, Wildlife and Parks Commission. Permits are issued annually and expire on December 31st. See also WILD BIRD PERMITS, p. 83 and NONGAME AND ENDANGERED SPECIES, p. 80.

Statute: 87-5-210, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division, or;

FISH, WILDLIFE AND PARKS COMMISSION

2. Application Requirements

Persons wishing to apply for a captive breeding permit must file a written application on a form provided by the department. Applications must be accompanied by a copy of a current federal captive breeding permit.

Rule: ARM 12.6.1401

U.S. FISH AND WILDLIFE SERVICE
Regional Office, Denver, CO
Permits Division

3. **Fees**

The state fee for a captive breeding permit is $20.

Rule: ARM 12.6.1401

4. **Additional Information**

Captive raptors must be banded with a numbered, nonreusable marker provided by the U.S. Fish and Wildlife Service. Permit holders must notify the department within five days from the day the first raptor egg is laid.

Rule: ARM 12.6.1403

FIELD TRIAL PERMIT

1. **Types of Activities Regulated**

A permit from the Montana Department of Fish, Wildlife and Parks is required to conduct a field trial to determine if a dog can point, flush or retrieve game birds. The exceptions are 1) if no live game birds are captured or killed during training, and 2) if the training is more than 1 mile from any bird nesting or management area or game preserve.

Statute: 87-4-915, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. **Application Requirements**

A person wishing to obtain a field trial permit must submit a written application on a form provided by the DFWP. The application must include the applicant's name and address, the name and address of any national affiliate, the location of the proposed field trial, whether live birds will be used and any other related information requested by the department.

3. Permitting Procedures

The application must be presented 20 days or more before the date of the proposed trial. The department director may deny the permit if it is determined that approving the application is not in the best interests of the protection, preservation, propagation and conservation of game birds in the state. If denied, a notice must be mailed to the applicant within 10 days of receipt of the application and must state the reasons for the denial.

4. Additional Information

If an application is granted, the applicant must flush all wild game birds from fields used for the field trial each day before the trial begins. Dogs are not permitted to run free in fields that have not been carefully flushed.

All live game birds used in a field trial must be tagged before being planted or released. Birds may only be planted and released in the presence of a department representative. If an untagged bird is shot, the permit holder must immediately replace it with a live bird.

FISH PONDS

1. Types of Activities Regulated

A person who owns or lawfully controls an artificial lake or pond may apply for a fish pond license from the Montana Department of Fish, Wildlife and Parks. The license entitles the holder to stock the pond with fish from a lawful source. The department may designate the species of fish that may be released and condition the license if there is the possibility of fish escaping from the pond into adjacent streams or lakes.

Before the license holder may sell the fish, eggs or fry, they must furnish a $500 surety bond conditioned to the effect that the licensee will not sell fish from public waters or violate the conditions of the license.

Statute: 87-4-603, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Additional Information

The department may, under reasonable suspicion and after notifying the landowner, inspect the pond for illegally stocked fish or diseases. Also, the license holder may request an inspection by the department.

FUR DEALERS

1. Types of Activities Regulated

A person, firm or corporation that engages in the buying, selling, trading or dealing of skins or pelts of fur-bearers or predators must secure a fur dealer's license from the Montana Department of Fish, Wildlife and Parks. The license is issued annually and expires April 30th of each year.

Statute: 87-4-301, 303 and 305, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Fees

The license fee for a resident fur dealer is $10 and for a fur dealer's agent (buyer), $10. The fee for a nonresident fur dealer's license is the same as the fee charged for a nonresident fur dealer's license in the applicant's state of residence. If the nonresident's state does not issue a nonresident fur dealer's license, the fee is $50.

Statute: 87-4-304, MCA

FUR FARMS

1. Types of Activities Regulated

No person may own, control or propagate furbearers for sale or conveyance (transfer from one property owner to another) unless they hold a current fur farm license issued by the Montana Department of Fish, Wildlife and Parks. The license expires on January 31st following the date of issuance.

Statute: 87-4-1002 and 1005, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Application Requirements

A person wishing to apply for a fur farm license must submit a written application to the department which includes the name and address of the applicant, the species of furbearers and any plans to propagate them, the legal description of the land to be included, the type of fence for enclosure and the source of the furbearers.

A fur farm license will only be issued to a responsible applicant who owns or leases the premises

where the operations will be conducted. A nonresident fur farm owner must have a resident agent who is responsible for the daily operations of the fur farm and who is authorized by the nonresident owner to receive service of process.

Statute: 87-4-1003, MCA

3. Permitting Procedures

Within 30 days of receiving the application, the department must notify the applicant of its decision to approve or deny the application. If the application is denied, the department must specify the reasons for the denial.

4. Fees

The initial fee for a fur farm license is $25 and the renewal fee is $15.

Rule: ARM 12.6.1701

GAME BIRD FARMS

1. Types of Activities Regulated

No person may own, control or propagate game birds unless they hold a current game bird farm license issued by the Montana Department of Fish, Wildlife and Parks (DFWP) with the exception of 1) a person who has a game bird farm but does not sell the birds and who is provided written authorization from the department or 2) a person who has a migratory game bird avicultural permit (see p. 80). The license expires on December 31st following the date of issuance.

Statute: 87-4-901 through 87-4-916, MCA.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Application Requirements

A person wishing to obtain a game bird farm license must submit an application to the DFWP which includes the applicant's name and address, the species of game bird and plans for its propagation, the legal description of the proposed game bird farm location, the type of fence or enclosure and the source of the game birds. If the applicant is a nonresident owner, they must provide the name and address of a local resident agent. The resident agent must be responsible for the daily operation of the farm and be authorized by the nonresident owner to receive service of process.

A game bird farm license will only be issued to a responsible applicant who owns or leases the premises where the operations will be conducted and who has properly fenced or otherwise enclosed the area.

3. Permitting Procedures

Within 30 days of receiving the application, the department must notify the applicant of its decision to approve or deny the permit. If the application is denied, the department must specify the reason for denial.

4. Fees

The initial fee for a game bird farm license is $25 and the renewal fee is $15.

Rule: ARM 12.6.1601

GAME FARMS

1. Types of Activities Regulated

A person or corporation wishing to operate a game farm must obtain a permit from the Montana Department of Fish, Wildlife and Parks (DFWP). A game farm licensee must also comply with all applicable laws and rules administered by the Montana Department of Livestock relating to marking, inspection, transportation and health of the animals. Permits are issued annually and expire on January 31st of each year following the date of issuance. (See also ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS, p. 73.)

Statute: 87-4-406 through 420, 422 through 424, 426 through 428 and 432, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

DEPARTMENT OF LIVESTOCK
Animal Health Division
Brands Enforcement Division

2. Application Requirements

The permit application must include the name and address of the applicant and the game farm's principal manager; the legal description of the proposed location and the nature of the applicant's title to the land; the species of game animals that will be kept or propagated on the farm; the source of game animals; the type of facilities proposed and the location of the perimeter fencing; and information demonstrating that the applicant is a responsible person. If the applicant for a game farm

is not a Montana resident, the application must include the name and address of a Montana resident designated as the applicant's local agent. If the applicant is a corporation, the application must include the full names and addresses of all stockholders owning more than 10% stock in the corporation.

3. Permitting Procedures

The DFWP has 30 days of receipt of an application to notify the applicant in writing whether the application is in compliance and accepted as complete or is not in compliance. If the department determines that the application is not in compliance it will list any deficiencies that must be corrected.

Within 120 days of the acceptance of the completed application, the department will notify the applicant of its proposed decision to approve, approve with stipulations, or deny the application. If the department determines that an Environmental Impact Statement is required (see MONTANA ENVIRONMENTAL POLICY ACT, p. 105) then the department has an additional 180 days to act on the completed application.

4. Fees

Number of Animals	Initial License	Renewal Fee
1 to 20 animals	$200	$50
21 to 60 animals	$300	$100
More than 60 animals	$400	$200

Statute: 87-4-411, MCA

OUTFITTERS AND GUIDES

1. Types of Activities Regulated

An individual who intends to provide services as an outfitter,[1] guide or professional guide must obtain a license from the Montana Department of Commerce, Board of Outfitters and Guides.

A guide or professional guide is endorsed by and works under the supervision of a licensed outfitter. An outfitter may not hire a guide or professional guide who does not hold a valid license. When an outfitter endorses a guide or professional guide's application for licensure, the outfitter is attesting to that guide's qualifications.

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[1] An outfitter is a person who exchanges something of value for personal services or equipment with the exception of an owner of land used primarily for agriculture that allows another person to take or pursue fish or wildlife, and who accompanies that person on all or part of a related expedition or supervises a licensed guide or professional guide in accompanying that person.

Licenses for professional guides must be renewed by January 1st each year or are subject to a penalty. Guide renewals are due on April 1st, but the license holder does not incur a penalty for missing this date.

Permission and any needed permits from landowners (private, state or federal) must be provided to the Board before an individual is licensed, or once licensed, immediately on receipt.

Certain food service and guest facilities associated with outfitting and guide services must be licensed by the Department of Public Health and Human Services. See FOOD PROCESSING AND SERVICE, GUEST RANCHES/OUTFITTING AND GUIDE FACILITIES p. 48.

Statute: 37-47-101(8), 301 and 308, MCA

Rule: ARM 8.39.501, 508-510, 514, 804(7)

Contact: DEPARTMENT OF COMMERCE
Division of Professional and Occupational Licensing
Board of Outfitters and Guides

2. **Application Requirements**

A. First Time Outfitter License: An applicant for an outfitter's license must submit a completed application on a form provided by the Board of Outfitters meet the necessary experience requirements and pass a standard examination administered by the Board. The application forms the basis for the operations plan and must include relevant personal information and information on the applicant's experience, the number of clients served, the area of operation and an affidavit that the equipment listed is owned or leased by the applicant and is sufficient to provide the services offered. Board staff will inspect the equipment listed in the operations plan and other information as warranted.

Outfitter's Qualifications: An outfitter must be 18 years of age or older, physically capable and mentally competent to perform the duties of an outfitter and must meet the experience and testing requirements as prescribed by Board rule. The outfitter must own or lease the necessary equipment and facilities for the outfitting service, demonstrate respect for related state and federal laws and have not practiced fraud or misrepresentation in obtaining an outfitting, guide, professional guide or conservation license or in advertizing outfitting services.

B. Guide or Professional Guide: An applicant for a guide or professional guide's license or the guide's employing outfitter must submit a completed license application provided by the Board. The application must be signed by the guide and signed and endorsed by the outfitter. The license is not valid until the endorsing outfitter signs the actual license.

Guide or Professional Guide's Qualifications: A guide or professional guide must be 18 years of age or older, physically capable and mentally competent to perform the duties of a guide or professional guide, be endorsed and recommended by an outfitter with a valid license and have been issued a valid conservation license.

In addition to the requirements for guides, an applicant for a professional guide's license must meet the experience, training and testing requirements set by Board rule.

Statute: 37-47-302 through 305, 311, MCA

Rule: ARM 8.39.501-505, 8.39.514-515

3. **Permitting Procedures**

A. Outfitters: Prior to taking the outfitter exam, the outfitter must meet the experience requirement, submit an operations plan and have the facilities and equipment described in the plan inspected. Once these criteria are met, the license applicant may take the exam. The Board office may solicit comments from the public, the Montana Department of Fish, Wildlife and Parks and other appropriate state and federal agencies to determine if the intended use will conflict with existing uses.

If the application is denied, the Board will notify the applicant of the denial and the reasons for the denial. If the deficiencies are corrected, a license will be issued on reapplication.

B. Guide's License: The employing outfitter must confirm that the applicant for a guide's license meets all qualifications. If approved, the license is mailed to the employing outfitter, who endorses and dates the license. A guide is not considered licensed until the license is in hand.

Statute: 37-47-307, 308 and 341, MCA

Rule: ARM 8.39.504-505, 514 and 8.39.804

4. **Fees**

New outfitter license:

Application processing	$300
Examination	$100
Investigation	$300
Annual license	$200

Amendment to outfitter license:

Application processing	$ 75
Examination	$ 75

Renewal of outfitter license:	
Annual license	$235
Inactive status	$150
Late renewal penalty	$300
New operations plan:	
Review and processing	$125
Equipment inspection	$300
Amendment to an operations plan:	
Requires inspection	$400
Requires review (no inspection)	$100
No review or inspection	$ 10
Net client hunting use expansion request (see 6. Additional Information below)	$300
New professional guide license:	
Processing	$ 75
Renewal	$ 75

Statute: 37-1-134, 37-47-306, MCA

Rule: ARM 8.39.518 and 8.39.801

5. **Criteria**

There is currently a moratorium on the number of licensed hunting outfitters. The 1999 Legislature will review this moratorium to determine if it has accomplished the necessary results. Licenses can still be purchased from an existing outfitter if the buyer is qualified, or a license may become available through the death of a license holder, revocation by the Board for disciplinary problems or retirement.

Rule: ARM 8.39.801-804

6. **Additional Information**

Net Hunting Use: The 1995 Legislature set a *net client hunting use* designation for each outfitter licensed in the state based on the outfitter's highest use year over a ten year period for each license type. An outfitter may not expand net hunting use without first receiving approval from the Board of Outfitters.

If an outfitter has utilized land under other state or federal agencies' jurisdictions that limit the number of hunter clients, those lands and clients do not fall under the net client hunting use rules.

Rule: ARM 8.39.804

ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS

1. Types of Activities Regulated

A. It is unlawful to operate a roadside menagerie or zoo (a place where one or more wild animals, birds or reptiles are kept in captivity for exhibition or attracting trade) or to buy or capture wild animals for a menagerie or zoo without a permit from the Montana Department of Fish, Wildlife and Parks (DFWP). A permit is not required for the exhibition of any animal by an educational institution or in a zoological garden chartered as a nonprofit corporation by the state, nor for animals exhibited by any traveling theatrical exhibition or circus. Permits expire on December 31st and may be renewed by payment of the annual fee.

B. It is unlawful to possess a wild animal (skunk, fox, raccoon or bat) except as part of a fur-bearing enterprise, zoo or for scientific research. Animals possessed for six months prior to January 1, 1982 are exempt.

Statute: 87-4-801 through 804, MCA
50-23-102, MCA

Rule: ARM 12.6.1301-1309

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division: roadside zoos

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Communicable Disease Control and Prevention Bureau: possession of foxes, skunks, bats or raccoons

2. Application Requirements

An application for a roadside menagerie or zoo permit is submitted by completing forms provided by the DFWP. No permit can be issued or renewed until the roadside zoo or menagerie is covered by an insurance policy to cover accidents on the premises.

Statute: 87-4-803, MCA

Rule: ARM 12.6.1308

3. Fees

The annual permit fee for five or fewer animals is $10. The annual fee for more than five animals is $25.

Statute: 87-4-803, MCA

SEINING

1. Types of Activities Regulated

A person who wishes to seine or capture and sell nongame bait fish (with the exclusion of carp, goldfish and rainbow smelt) in any lake, stream or body of water must obtain a license from the Montana Department of Fish, Wildlife and Parks.

Statute: 87-4-602, MCA

Rule: ARM 12.7.201(1)

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division
Regional Offices

2. Application Requirements

The applicant for a commercial seining license must submit a form provided by the department stating their name and address, the waters desired for seining and the purpose for which the bait fish are being seined.

Rule: ARM 12.7.201-202

3. Fees

The fee for a commercial seining license is $10.

Rule: ARM 12.7.201(2)

4. Additional Information

Unless permitted by statute or other department authorization, bait fish may not be imported into or exported from the state of Montana for commercial or other purposes by a licensee or other person.

Rule: ARM 12.7.201(5)

SHOOTING PRESERVES

1. Types of Activities Regulated

The Montana Department of Fish, Wildlife and Parks (DFWP) issues operating licenses or permits for shooting preserves. All persons hunting on shooting preserves must have a valid resident or nonresident upland game bird license or a 3-day nonresident shooting preserve bird hunting stamp. Game that may be artificially propagated and hunted on a preserve is limited to pheasants, quail, chukar partridges, hungarian partridges, turkeys and other species set forth by the DFWP. The season for shooting preserves is September 1st through March 31st.

Statute: 87-2-404, 87-4-501 through 504 and 522, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Criteria

Each shooting preserve is restricted to not more than 1,280 contiguous acres. No preserve may be located closer than 10 miles from another preserve or in areas that will substantially reduce hunting areas available to the public. The exterior boundary of each shooting preserve must be clearly defined and posted with signs erected around the extremity at intervals of 250 feet or less.

Statute: 87-4-502, MCA

3. Additional Information

The DFWP will furnish self-locking pheasant tags to licensed shooting preserve operators for 10 cents each. All harvested game must be tagged prior to removal from or consumption on the premises.

Statute: 87-4-525, MCA

Rule: ARM 12.6.1201

4. Fees

Fees for shooting preserve operating licenses or permits are $50 per year for the first 160 acres of shooting preserve area, plus $20 per year for each additional 160 acres or parts thereof.

Statute: 87-4-503, MCA

TAXIDERMY

1. Types of Activities Regulated

A person in the business of mounting, preserving or preparing any dead wildlife or its parts must have a license from the Montana Department of Fish, Wildlife and Parks. A written record must be kept of all wildlife in the licensee's possession or control. The record should include information on who owns the wildlife, the kind and number of species, all articles of wildlife shipped and to whom, etc. A state game warden may inspect the records of a taxidermist at any reasonable time.

Statute: 87-4-201, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Fees

The annual fee for a taxidermist's license is $15.

FISHING, HUNTING AND TRAPPING LICENSES

1. Types of Activities Regulated

All persons wishing to pursue, hunt, trap, take, shoot or kill any game animal, game bird or fur-bearing animal must have a license from the Montana Department of Fish, Wildlife and Parks.

Statute: 87-2-103, MCA
87-2-301 *et seq.* MCA; fishing licenses
87-2-401 *et seq.* MCA; game bird licenses
87-2-501 *et seq.* MCA; game animal licenses
87-2-601 *et seq.* MCA; trapping licenses
87-2-701 *et seq.* MCA; special licenses

Rule: ARM 12.3.101-210 and 12.3.401-406

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Administration and Finance Division
Licensing/Data Processing

2. Application Requirements

An applicant for a hunting, fishing or trapping license must first obtain a wildlife conservation license. Wildlife conservation, hunting, trapping or fishing licenses can be obtained at a private sector license

agent or at Fish, Wildlife and Parks offices. Annual hunting and fishing licenses expire on the last day of February, and trapping licenses on the last day of June.

Statute: 87-2-106 and 201, MCA

3. Permitting Procedures

General hunting and fishing licenses are issued at the time of application. Special hunting licenses are issued via a random computer drawing process. Applications for moose, sheep and goat licenses must be completed by May 1st and applications for deer, elk and antelope licenses must be completed by June 1st. Nonresident combination big game licenses are limited and are issued on a first come-first served or drawing basis with an application deadline of March 15th.

4. Criteria

All applicants are eligible if they meet residence, hunter safety instruction and age requirements. Licenses and permits must be in the person's possession at the time of the activity.

5. Fees

Fees vary according to the type of license issued. Contact the DFWP, License Bureau.

FISHING, HUNTING AND TRAPPING REGULATIONS

1. Types of Activities Regulated

Certain fishing, hunting and trapping regulations are established annually by the Montana Department of Fish, Wildlife and Parks depending on a number of factors: the current population of a species, climatic conditions, etc. Check with the department for the latest requirements for a specific area or species.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

The following items or activities are among those regulated by the DFWP.

ACTIVITY OR ITEM	STATUTE OR RULE
Aerial hunting/hunting from boats	87-3-126, MCA
Big game hunting	87-3-301 through 307, MCA
Buying, selling, possessing or transporting fish or game	87-3-111, MCA
Fish hatcheries	87-3-201, MCA
Ice fishing shelters	ARM 12.6.101-108
Importation or introduction of wildlife	87-3-105, MCA
Importation of salmonid fish or eggs	87-3-210, 221, MCA
Migratory game birds	87-2-411, MCA
Number of game animals killed	87-3-103, MCA
Package labeling	87-3-114; MCA
Seining or netting fish	87-3-205, MCA
Spotlighting	87-3-101(3), MCA
Snare trapping	87-3-107, MCA
Use of dogs for hunting	87-3-124, MCA
Use of fish as bait	87-3-203, MCA
Use of explosives or poisons for fishing	87-3-206, MCA
Wasting fish or game	87-3-102, 506, MCA
Waterfowl hunting	87-2-411, MCA

WILDLIFE PROTECTION

GAME PRESERVES

1. Types of Activities Regulated

It is unlawful for a person to hunt for, trap, capture, kill or take game animals, fur-bearing animals or birds within a game preserve established by the Legislature or by the Fish, Wildlife and Parks Commission. It is also unlawful within the limits of a preserve for a person to carry or discharge firearms, create an unusual disturbance to frighten or drive away game animals or birds or to chase them with dogs.

Permits to capture birds or animals for the purpose of propagation or for scientific purposes, to trap fur-bearing animals or to kill certain predatory animals or birds within a preserve may be granted by the director on the payment of a fee and in accordance with rules established for the preserve by the Commission.

Statute: 87-5-401 through 406, MCA

Rule: ARM 12.9.202-204, 206-209

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

IMPORTATION OF FISH, FISH EGGS AND WILDLIFE

1. Types of Activities Regulated

A. It is unlawful to bring live or dead salmonid fish or eggs into Montana without written certification from the state of origin that the fish are free of diseases as specified in ARM 12.7.501 and all salmonid fish or eggs must be accompanied by a permit issued by the Montana Department of Fish, Wildlife and Parks. The department may inspect shipments of imported fish or eggs at any point in the state to ensure compliance with these regulations. The DFWP also may impound shipments for further inspecting and testing if reasonable cause exists.

Statute: 87-3-221 and 222, MCA

Rule: ARM 12.7.505

B. It is unlawful to transfer or introduce any fish or fish eggs into any body of water or to import game birds, game or fur-bearing animals, or nongame wildlife into the state without approval from the DFWP.

Statute: 87-3-105, 87-5-711 and 87-5-714, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

MIGRATORY BIRDS

1. Types of Activities Regulated

A. Laws relating to migratory birds are set forth by law by the U.S. Fish and Wildlife Service. Under these regulations, no person is allowed to take, possess, import, export, transport, sell, purchase or barter for any migratory bird, or the parts, nests or eggs of these birds except under the terms of a valid permit. A list of migratory birds as established by the Fish and Wildlife Service may be found in 50 C.F.R. § 10.13.

Rule: Migratory Bird Treaty Act, 16 U.S.C. 703-712

Contact: U.S. FISH AND WILDLIFE SERVICE
Law Enforcement, Billings

B. Hunting seasons for migratory game birds are established by the Montana Department of Fish, Wildlife and Parks (DFWP) through Fish, Wildlife and Parks Commission action. The seasons must fall within the federal frameworks established by the U.S. Fish and Wildlife Service in consultation with the Flyway Councils, states and other interested parties. Persons wishing to hunt migratory game birds must possess the appropriate licenses as described in 87-2-411, MCA. See FISHING, HUNTING AND TRAPPING LICENSES, p. 76.

C. The DFWP may issue an avicultural permit for taking, capturing and possessing migratory game birds for the purpose of propagation. The department must first determine that the applicant has received the appropriate federal permit or that the applicant will receive the appropriate federal permit subject to concurrence by the department.

Statute: 87-2-807, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

NONGAME AND ENDANGERED SPECIES - STATE

1. Types of Activities Regulated

No person may take, possess, transport, export, process, sell or offer for sale or ship or receive for shipment any species or subspecies of nongame wildlife deemed by the Department of Fish, Wildlife and Parks to be in need of management or listed as endangered by the state or the United States or on the United States list of endangered foreign fish and wildlife. Species currently listed in Montana are:

the American peregrine falcon, the whooping crane, the gray wolf and the black-footed ferret. Exceptions are 1) in emergency (life-threatening) situations; and 2) when necessary to prevent property damage or to protect human health if a permit is first obtained from the director of the Montana Department of Fish, Wildlife and Parks, and where possible, done by or under the supervision of an agent of the department. The director of the department may also permit the taking of endangered species for special purposes such as scientific research or for propagation in captivity.

Statute: Nongame and Endangered Species Conservation Act; 87-5-101 *et seq.*, MCA
87-5-109, MCA: taking of endangered species for scientific purposes

Rule: ARM 12.5.201

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

TAKING FISH OR GAME FOR SCIENTIFIC PURPOSES

1. Types of Activities Regulated

A permit is required from the Montana Department of Fish, Wildlife and Parks (DFWP) for taking, killing, capturing or possessing certain species for use in scientific studies. The permit holder may only take as many birds, animals or fish as are necessary for the investigation. A permit may not be granted for any species for which a taking is prohibited by statute or rule.

Statute: 87-2-806, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division
Wildlife Division

2. Application Requirements

A person or organization wishing to apply for a collection permit for a scientific investigation must submit an application to the DFWP. The department may require the applicant to submit a plan of operations that includes the purpose for the collection, the methodology to be employed and the qualifications of the collectors.

3. Permitting Procedures

The department may issue a permit with conditions on the time and number of birds, fish or animals that may be collected. The department may deny the permit if it determines: the applicant is not qualified, the collection is not necessary for the investigation, the collection method is not appropriate, the collection may threaten the viability of a species or there is no valid reason for the proposed investigation.

The permit holder is required to submit a report before December 31st that indicates the species, number of individuals taken and the locations of those collections. A permit holder who fails to file a report may be denied another permit.

4. Fees

There is no fee for a collection permit for an educational institution or government agency. The fee for an individual is $50.

THREATENED AND ENDANGERED SPECIES - FEDERAL

1. Types of Activities Regulated

Under the Federal Endangered Species Act as amended (P.L. 93-205), special protection is provided to any species or its habitat if the species is listed as endangered (in danger of extinction throughout all or a significant portion of its range), or threatened (likely to become endangered in the foreseeable future throughout all or a significant portion of its range). The Federal Endangered Species Act lists as endangered all four species protected under the Montana Nongame and Endangered Species Conservation Act (see p. 80), and in addition, also lists the pallid sturgeon, the least tern and the Kootenai River population of the white sturgeon. Species listed as threatened under the federal act include the bald eagle, the grizzly bear, the piping plover, the water howellia and Ute ladies'-tresses.

The Endangered Species Act requires that all federal agencies, in consultation with the U.S. Fish and Wildlife Service, must insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any threatened or endangered species. Federal agencies involved in major construction actions requiring preparation of an Environmental Impact Statement are required to request a species list and prepare a biological assessment for the purpose of identifying any endangered or threatened species that is likely to be adversely affected by the action.

The Endangered Species Act prohibits any person or agency from *taking*[1] any listed species of fish or wildlife without a special exemption/permit.

Statute: Endangered Species Act of 1973, as amended; 16 U.S.C. 1531-1544.

Contact: U.S. FISH AND WILDLIFE SERVICE
Montana Field Office, Helena

[1] To take is defined as to harass, harm, pursue, hunt, wound, kill, trap capture, or collect or attempt to engage in these actions.

USE OF POISON BAIT ON DEPARTMENT LANDS

1. **Types of Activities Regulated**

No 1080 baits can be placed on Montana Department of Fish, Wildlife and Parks lands without written permission from the Fish, Wildlife and Parks Commission.

Statute: 87-1-201 and 301, MCA

Rule: ARM 12.9.106

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

WILD BIRD PERMITS

1. **Types of Activities Regulated**

A. No person may hunt, capture, kill, possess, purchase, offer or expose for sale or transport any nongame wild bird or part of a wild bird or take or destroy nests or eggs without a certificate or permit from the Montana Department of Fish, Wildlife and Parks. Exceptions are 1) house sparrows, crows, starlings, magpies, rock doves, blackbirds, (see * Note) and other species and their eggs or nests designated by the DFWP, and 2) possession or transportation of parts or plumage of eagles used for religious purposes by a member of a Native American tribe when permitted by federal law.

* **Note** Crows, blackbirds and magpies **are** protected by federal laws, (see MIGRATORY BIRDS, p. 80).

B. Licenses are required for any person to trap, possess, sell or transfer possession of a raptor or to train a raptor in the practice of falconry. Certain species may **not** be captured in Montana for the sport of falconry: the peregrine falcon, the bald eagle and the osprey.

C. The DFWP may grant permits for the taking and holding of raptors for captive breeding purposes under certain specific conditions (see CAPTIVE BREEDING OF RAPTORS, p. 63).

D. A permit is required from the DFWP to take, capture or possess a wild bird for the purposes of banding for scientific studies, salvaging birds killed in accidents or collecting abandoned birds' nests for school or museum collections and nursing sick or injured birds.

Statute: 87-5-201 through 210, MCA

Rule: ARM 12.6.1101-1103, 1106, 1109, 1112, 1116, 1118-1130 and 12.9.301

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division
Enforcement Division

2. **Fees**

The state fee for a 3-year falconry permit is $25(available only to residents of Montana) and for a 1-year captive breeding permit, $20. A fee for the federal permit is also required.

Statute: 87-5-210, MCA

Rule: ARM 12.6.1120: falconry permit
ARM 12.6.1401: captive breeding permit

COAL AND URANIUM MINING: OPERATIONS

1. Types of Activities Regulated

A person must obtain a permit from the Montana Department of Environmental Quality (DEQ) prior to engaging in strip- or underground mining operations removing more than 10,000 cubic yards of mineral or overburden, removing more than 250 tons of coal within one calendar year in one location, operating a coal preparation plant or for underground injection mining of uranium. The permit must designate all lands the operator reasonably anticipates will be mined during the applicable 5-year permit period. Permits may be renewed on each 5-year permit anniversary by applying for a renewal to the DEQ, at least 240 but not more than 300 days, prior to the renewal date. In order to renew a permit, the operator must be in compliance with the permit requirements and the reclamation plan. An operator must reclaim and revegetate the land affected by their operation as quickly, completely and effectively as the most advanced technology will allow, except that underground tunnels or shafts need not be revegetated. Coal removal must begin within 3 years of issuance of the permit, unless an extension is granted. (See also, WATER QUALITY PERMITTING, p. 160, and AIR QUALITY PERMITS, p. 31).

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information.

Statute: Strip and Underground Mine Reclamation Act, 82-4-201 *et seq.*, MCA and Montana Coal Mining Code (Mine Safety) 50-73-101 *et seq.*

Rule: ARM 24.30.1302 and 17.24.401, 413 and 416(1)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

2. Application Requirements

A. Permit

A person applying for a coal or uranium mine operating permit must complete an application furnished by the DEQ that includes a complete and detailed plan for the

mining, reclamation, revegetation and rehabilitation of the land and water that may be affected by the proposed operations. The application must include information regarding soils, geology, hydrology, air quality, vegetation, historic and cultural features, etc. For mine areas containing federal coal, nine copies of all applications, maps, reports and other information must be submitted. Four copies must be sent to the DEQ and the remainder to the U.S. Department of the Interior, Office of Surface Mining. For mine areas not containing federal coal, four copies of all applications, maps, reports and other information must be submitted to the DEQ. Each permit applicant must also submit evidence that they hold a public liability insurance policy for the strip- or underground mining and reclamation operations for which the permit is sought. Also, before the department will issue a permit, the operator must file a bond with the state in a sum to be determined by the DEQ of not less than $200 for each acre or fraction of an acre of the land affected, with a minimum bond of $10,000. If federal coal is involved, the bond must also be made payable to the U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement as surety.

B. Reclamation Plan

The reclamation plan for a coal or uranium mine must describe how the applicant will comply with provisions regarding grading, backfilling, water control, topsoiling, reclamation and mineral conservation, as well as measures that will be taken to eliminate damages to landowners and members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, subsidence, landslides, water pollution and hazards. In addition, the plan must list the steps to be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards.

Statute: 82-4-222, 223 and 231, MCA

Rule: ARM 17.24.302-327

3. **Permitting Procedures**

1) The application for a permit or major revision of a permit or reclamation plan must be submitted to the DEQ. The department has 90 days to determine if an application is administratively complete. The department then notices the applicant whether there are any items that have not been sufficiently addressed, or if complete, whether an Environmental Impact Statement is required (see MONTANA ENVIRONMENTAL POLICY ACT, p. 105). On determination that the application is administratively complete, the department will notify various local governments, planning agencies, sewage and water treatment authorities and water companies in the area of the proposed mining. Persons interested in the proposed mining, or any officer of a federal, state or local government agency may file written objections to the application within 30 days of the last public notice or receipt of the DEQ's notice. If written objections are filed and an objector requests an informal conference, the DEQ must

hold an informal conference in the area of the proposed mining and notify all parties of its occurrence.

2) The DEQ must notify the applicant by certified or registered mail within 120 days after receipt of the completed application whether the plan has been accepted. If the application is not acceptable, the applicant may revise the application. The DEQ then has another 120 days to render its decision concerning acceptability. The DEQ may also prepare modifications to the application, delete areas or reject the entire application.

3) An acceptable application triggers public notice of the proposal. A landowner, operator or any person affected by the department's decision may, by written notice, request an informal conference. The informal conference must be held within 20 days of the request. The department must issue its decision within 10 days of the informal conference.

4) Every reclamation plan is subject to annual review and modification.

Statute: 82-4-231, MCA

Rule: ARM 17.24.401-404

4. **Fees**

An application fee of $100 is required prior to issuance of a permit.

Statute: 82-4-223, MCA

5. **Criteria**

The permit for coal and uranium mining operations may be denied for a number of reasons, including, but not limited to, an inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic characteristics, a proposed location on a significant alluvial valley floor, biological productivity, ecological fragility, the threat of a public hazard or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 228, MCA

Rule: ARM 17.24.1141-1148

COAL AND URANIUM MINING: PROSPECTING PERMITS

1. Types of Activities Regulated

A coal or uranium mine operator must obtain a prospecting permit from the Montana Department of Environmental Quality (DEQ) if the land is not already included in a current operating permit (see p. 85) and if the prospecting is conducted for the purpose of determining the available mineral deposits. A reclamation plan and bond must be submitted. The permit is valid for one year and must be renewed.

A prospecting permit is not required for surface disturbances to determine the quantity of overburden in an area, or for gathering environmental data prior to strip- or underground mining and reclamation operations, providing the area to be disturbed is not one designated as unsuitable for coal mining (see *4. Criteria* on the following page) and does not remove more than 250 tons of coal. However, a person who conducts these activities must file a notice of intent with the DEQ that contains the information required by the department prior to beginning the described activities.

Statute: Strip and Underground Mine Reclamation Act; 82-4-226 *et seq.*, MCA

Rule: ARM 17.24.1001-1018 and 17.24.1101-1125

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

2. Application Requirements

A. The application for a prospecting permit must be made in writing, notarized and submitted to the DEQ in duplicate on forms furnished by the department. A detailed prospecting map and a prospecting reclamation plan must accompany the application. A description of the proposed method of exploration and type of equipment to be used must be included. Prior to obtaining a prospecting permit, the applicant must file a reclamation and revegetation bond with the DEQ in an amount determined by the department, based on the estimated cost to the DEQ of required reclamation and restoration work.

B. At least 120 days but not more than 150 days prior to the permit's anniversary date, the operator may submit an application for a permit renewal stating the number of holes permitted and drilled, listing surface disturbances and supplying an updated map.

Statute: 82-4-226, MCA

Rule: ARM 17.24.1001, 1003, 1016 and 1102

3. Fees

The application fee for a prospecting permit is $100.

Statute: 82-4-226(3), MCA

4. Criteria

The permit for prospecting for coal and uranium may be denied fora number of reasons, including, but not limited to, adverse reclamation possibilities, exceptional topographic characteristics, biological productivity, ecological fragility, historic or geologic importance, or threat of a public hazard.

Statute: 82-4-227 and 228, MCA

Rule: ARM 17.24.1141-1148

HARD-ROCK MINING: EXPLORATION

1. Types of Activities Regulated

Hard-rock mining laws apply to ores other than oil, gas, bentonite, clay, coal, sand, gravel, scoria, phosphate rock or uranium. A state exploration license for hard-rock mining and a plan of operations are required for any exploratory activity that causes a *material disturbance* of the surface. If the exploration is mechanized (drilling, dozing, backhoe, etc.), a license and reclamation bond are required. Hand sampling with a pick and shovel does not require state licensing or approval. State exemptions are also made for operations conducted on federal lands if the Board of Environmental Review determines that applicable federal rules are as stringent as the state requirements.

Statute: 82-4-301 *et seq.*, MCA

Rule: ARM 17.24.101 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. Application Requirements

To obtain an exploration license, the applicant must propose a specific project to the Montana Department of Environmental Quality (DEQ). The DEQ has available standard application forms as well as a sample plan of operations that shows the level of information required. The department also accepts copies of USDA Forest Service operating plans as long as an adequate map is provided.

Once the DEQ receives and reviews an exploration plan, an on-site visit is scheduled among the DEQ, the applicant, and usually, a representative from the appropriate federal agency, to calculate the amount of reclamation bond required for the project. The applicant must agree to post the bond, reclaim any damaged land and not be in default of any other reclamation law. An exploration license is a statewide license, and only one is issued per individual or company. Any additional projects are considered amendments to the license, and each must be individually approved and bonded.

Statute: 82-4-331 and 332, MCA

Rule: ARM 17.24.103, 104 and 1101-1120

3. Permitting Procedures

On approval of the exploration plan by the director of the DEQ, and after the bond is submitted, the applicant will receive a hard-rock exploration license. The operator cannot legally begin explorations, however, until federal approval, if applicable, is also granted. The license is renewable annually on application and payment of the renewal fee.

Rule: ARM 17.24.103

4. Fees

The fee for an exploration license is $5.

Statute: 82-4-332, MCA

Rule: ARM 17.24.103

HARD-ROCK MINING: MILLING/REPROCESSING

1. Types of Activities Regulated

A person who reprocesses tailings of waste rock from a previous mining operation must obtain an operating permit before conducting operations or disturbing land in anticipation of the reprocessing operation. A *small miner* (see p. 92 for definition) who does not use cyanide ore processing reagent is excluded from this requirement.

Rule: ARM 17.24.165 *et seq.*

2. Application Requirements

A person wishing to operate a mill must obtain an operating permit for each mill complex by completing an application form provided by the Montana Department of Environmental Quality before construction or operation of the mill or associated facilities. The applicant must: 1) indicate the proposed date for operations, 2) provide a detailed map and summary of resources of the area, 3) file a reclamation bond, 4) file an operating plan and 5) file reclamation, monitoring and appropriate contingency plans. Annual reports must be submitted describing the available ore, the tailings and waste generated, water quality monitoring and the remaining waste and tailings capacity.

Milling operations are presumed completed and are thus subject to the reclamation time schedule outlined in the approved reclamation plan when the mill has ceased operations for a period of two years or more. A permittee may rebut this presumption by providing evidence satisfactory to the department that the operations have not been abandoned.

3. Fees

A filing fee of $25 is required by the department unless the mill application is submitted with an associated new operating permit application.

Rule: ARM 17.24.167

HARD-ROCK MINING: OPERATIONS

1. Types of Activities Regulated

A. An individual or company is required to obtain a mine operating permit from the Montana Department of Environmental Quality (DEQ) prior to the commencement of mining unless excluded under the conditions of the *small miner's* exemption (see B. below). Annual reports and fees are required. A reclamation bond and a reclamation plan must be submitted and the department conducts annual inspections for compliance with the reclamation plan. (See AIR QUALITY PERMITS, p. 31; CONSERVATION DISTRICTS, p. 2; MAJOR FACILITY SITING, p. 44; STREAM BEDS - STREAM BANKS - WETLANDS, p. 11; WATER APPROPRIATIONS - SURFACE AND GROUND WATER, p. 155; and WATER QUALITY PERMITTING, p. 160.)

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information.

B. Small miners are exempt from many of the requirements of larger mining operations. A small miner is an operator or reprocessor who does not hold an operating permit for another operation in the state that exceeds 100 acres in size and whose operations leave no more than five acres disturbed and unreclaimed. The small miner exclusion also applies to two operations that are each less than five acres, that are at least one mile apart and that are the person's only mining operations. A landowner allowing mining activities within the above criteria also falls under the small miner definition. Disturbed land does not include access roads required by another agency if that agency will maintain the roads after mining ceases, or access roads for which a reclamation bond has been submitted to the DEQ. Hobby miners who do not: use motorized excavating equipment, use blasting agents, disturb more than 100 square feet or 50 cubic yards of material per site, leave unreclaimed sites less than one mile apart, use a suction dredge with an intake of more than four inches in diameter, or operate a suction dredge beyond the area of a stream bed that is naturally under water at the time of operation do not need a SMES permit.

The small miner must sign a Small Miner's Exclusion Statement (SMES), available at the DEQ, which consists of a signed and notarized affidavit stating that the applicant will stay within the requirements or conditions of the exclusion. An annual Compliance Commitment and Certificate of Business Relationships are required to maintain SMES status. The DEQ has the authority to hold up to a $10,000 reclamation bond on small placer and dredge mines. The DEQ may also recover costs over the $10,000 limit by filing for the additional amount in district court. Small mining operations which use cyanide are required to obtain an operating permit for the portion of their operation where cyanide is used. The SMES cyanide permit requires the same kind of information as a large mine operating permit, but in less detail. A bond for the full reclamation cost is required by the DEQ for that portion of the small miner's permit area where cyanide is used. This portion of the operation is excluded from the 5 acre disturbed land limit described above.

Statute: 82-4-301 *et seq.* and 50-72-101 *et seq.*, MCA

Rule: ARM 17.24.101 *et seq.* and 24.30.1301

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division

2. Application Requirements

An applicant for an operating permit must submit an application for each mine complex. The application consists of several parts, including a description of the present condition of the area, i.e., hydrology, soils, vegetation, cultural resources, wildlife, etc; an operating plan describing the type and

size of the operation, equipment, etc; reclamation plans, stating the reclamation objectives and how they will be implemented; monitoring plans; contingency plans; and closure plans. Once the application is completed, the agency will evaluate the plans and will either approve or deny the permit or will approve the permit with conditional mitigations or stipulations. If approved, a bond is then calculated based on the applicant's reclamation plan. Once the bond is submitted, the permit is granted. Other permits, not issued by the DEQ, may also be required depending on the size and location of the operation.

Statute: 82-4-335 and 338, MCA

Rule: ARM 17.24.116 and 1101-1120

3. **Permitting Procedures**

A. 1) Once a plan is submitted, the DEQ has 60 days for an initial review and 30 days for any subsequent review of the application to determine if it is complete, i.e., if there is enough information to begin an environmental review and make an informed permit decision.

2) If incomplete, the applicant is mailed a deficiency or completeness review letter on or before the review deadline. The letter alerts the applicant to additional resource or plan information required by the department. If it is a joint state/federal action (if permits are required by both the DEQ and the USFS or BLM), a joint deficiency letter is sent which includes comments from both the state and federal agencies. During the application process, the DEQ inspects the proposed site. If the site is not accessible because of extended adverse weather conditions, the DEQ may extend the review period by not more than 180 days to allow for inspection of the site. If the DEQ determines that additional time is needed to review the application and reclamation plan for a major operation, the department and applicant must negotiate to extend the time period by not more than 365 days.

3) There are no constraints on the amount of time an applicant has to prepare a response. Once a response is submitted, the DEQ again has 30 days to review the information. This process continues until the application is deemed complete.

4) Once the application is deemed complete the department has up to 365 days to conduct an environmental review. This time frame may be extended only through negotiations satisfactory to the department and the applicant.

5) A permit may be appealed within 90 days of issuance.

6) The operating permit must provide that the reclamation plan may be modified by the department after timely notice and opportunity for hearing.

Statute: 82-4-335 and 337, MCA

4. Fees

The application fee for a hard-rock mining permit is $25.

Statute: 82-4-335, MCA

Rule: ARM 17.24.107

5. Criteria

An operating permit may be denied if the plan of development--mining or reclamation--conflicts with the Montana Clean Air Act (75-2-101 *et seq.*, MCA, p. 31), the Montana Water Quality Act (75-5-101 *et seq.,* MCA, p. 160), the Public Water Supply Act (75-6-101 *et seq.*, MCA, p. 151), or if the reclamation plan is insufficient to accomplish the proposed reclamation.

Additional criteria apply if the applicant has outstanding enforcement or reclamation responsibilities elsewhere.

Statute: 82-4-351, MCA

6. Additional Information

Large Scale Developments

1) When a proposed mining project will employ more than 75 people in any consecutive six-month period in the construction or operation of the mine or associated milling facilities, the applicant must submit an economic impact plan to the affected counties and to the Hard-Rock Mining Impact Board. The plan must include development timetables, work-force projections, population immigration projections and projected local government service and facility needs, costs and revenues resulting from the development. The developer must commit to pay all increased capital and net operating costs to the affected units of local government and, if requested, must provide financial or other assistance to help them prepare for and evaluate the impact plan.

2) The affected local governments have 90 days in which to submit objections to the impact plan to the Impact Board. The Impact Board may grant one 30-day extension to the review period. If objections cannot be resolved by the developer and local governments, the Impact Board will hold a contested case hearing. Within 60 days after the hearing, the Impact Board will issue its findings. The Board will then amend the impact plan, if necessary, and will approve the plan.

3) Impact plan review is conducted concurrently with the DEQ permit review. Within 30 days after receipt of the approved plan, the developer must provide a written guarantee that it will make all payments according to the schedule in the approved plan. Activities under the permit may not begin until the impact plan is approved and

the permittee has provided a written guarantee to the DEQ and to the Hard-Rock Mining Impact Board. If the plan requires prepayment of taxes, the developer must also provide a financial guarantee to the Board. Under certain circumstances, as specified by statute or by the plan itself, the developer or an affected county may petition the Board for an amendment to the impact plan. Compliance with the terms of an approved impact plan is a statutory condition of the operating permit.

4) Based on periodic employee reports from mine permittees, the DEQ must identify permittees that become large-scale mineral developers after receiving an operating permit and must notify the permittee, the Board and the county in which the mine is located. After providing opportunity for public hearing, the Board may require an impact plan or may issue a waiver or conditional waiver for the impact plan request. Compliance with the terms of a conditional waiver becomes a condition of the permittee's operating permit. Upon request of a local government, a waiver may be revoked under conditions specified either by law or in the conditional waiver.

Statute: 8-4-335 and 339 and 90-6-301 *et seq.*, MCA

Rule: ARM 8.104.201 *et seq.*

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF COMMERCE
Local Government Assistance Division
Hard-Rock Mining Impact Board

LANDOWNER NOTIFICATION

1. Types of Activities Regulated

When surface and mineral rights are in separate ownership, the surface owner must be notified and give approval in writing of the proposed operations before any prospecting, exploration or development of subsurface minerals can take place.

Statute: Landowner Notification Act; 82-2-301 *et seq.*, MCA

Contact: SURFACE OWNER

MINING RIGHT-OF-WAY

1. Types of Activities Regulated

The owner of mining rights may establish a right-of-way over adjacent lands if necessary to work the claim. The right-of-way may be for roads, ditches, flumes and other mine-related purposes. Application is made to the district court.

Statute: 82-2-201 *et seq.*, MCA

Contact: DISTRICT COURT

2. Permitting Procedures

1) If the mine owner cannot obtain the agreement of adjacent landowners for right-of-way, the mine owner may file a complaint in district court requesting that a right-of-way be created.

2) After receipt of the complaint, the district judge must issue a summons to the parties requiring appearance before the court. The court appearance must be 10 or more days from the date of service of the summons.

3) If the judge determines that the right-of-way is warranted, the judge must award the mine owner the right-of-way and establish a commission of three persons to assess damages to the lands used as right-of-way.

4) Use of right-of-way can only begin upon payment of the assessed damages.

Statute: 82-2-203 through 208, MCA

3. Additional Information

Any party may appeal the commissioners' assessment of damages to the district court within 10 days after the report is filed.

Statute: 82-2-209 through 82-2-212, MCA

OPENCUT MINING

1. Types of Activities Regulated

The opencut mining regulations apply to the mining of bentonite, clay, scoria, phosphate rock, sand or gravel. An operator that removes over 10,000 cubic yards of mineral and overburden (cumulative

total since 1973) or that disturbs previously reclaimed opencut mined land must enter into a reclamation contract with the Montana Department of Environmental Quality (DEQ). An operator currently holding a reclamation contract does not need to secure an additional reclamation contract, bond or amendment if the new operations will result in the removal of 1,000 cubic yards or less of mineral and overburden and specific guidelines are met and the necessary forms submitted. Operations on certain federal lands may be exempt if the Board of Environmental Review determines that federal regulations are at least as stringent as state requirements.

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information.

All opencut sand and gravel operations must comply with applicable zoning regulations if the proposed mine site is in an area zoned as residential.

An air quality permit (see AIR QUALITY p. 31) from the DEQ is required for the operation of any mineral crushing plant.

Statute: Opencut Mining Act, 82-4-401 *et seq.*
50-72-101 *et seq.*, MCA: mine safety
75-2-204 and 211, MCA: air quality

Rule: ARM 17.24.201 *et seq.* , 24.30.1301 and 17.8.705

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety Bureau

2. Application Requirements

An operator must submit an application for a reclamation contract on a form furnished by the DEQ. A bond of at least $200 for each affected acre, a zoning compliance form, operation and reclamation plans and other details of the mine operation are also required. The department must approve the reclamation plan within 30 days, unless the period is extended an additional 30 days.

Statute: 82-4-432, 433 and 434, MCA

Rule: ARM 17.24.203-205

3. Permitting Procedures

The application form and accompanying materials (contract, bond, fee, zoning compliance form, map(s) and operations and reclamation plans) are reviewed for completeness to ensure that each item is addressed correctly. An on-site evaluation is conducted to determine if the land is mineable and reclaimable and to make sure site conditions are as specified in the application. The site inspection may be conducted with the applicant and other interested persons. If additions or changes are necessary, the applicant will be notified within 10 working days. When the information is completed, the reclamation contract is signed by the department director.

Rule: ARM 17.24.212

4. Fees

An application fee of $50 is required for an opencut mining contract.

Statute: 82-4-432, MCA

5. Criteria

The DEQ will only enter into a contract with the operator if the bond, reclamation plan and other requirements of Title 82, Chapter 4, Part 4 are fulfilled. The reclamation plan must ensure that the operator will establish vegetative cover commensurate with the proposed land use, will appropriately protect ground and surface water and will remove or bury metal and other waste, etc. (see also WATER, p. 160, and AIR QUALITY PERMITS, p. 31).

Statute: 82-4-432 through 434, MCA

Rule: ARM 17.24.205

OPERATIONS ON STATE LANDS: COAL MINING

1. Types of Activities Regulated

Coal mining leases on state lands are awarded by competitive bidding at no less than fair market value. The primary term is 10 years and as long thereafter as coal is produced in commercial quantities. Rent and royalties must be paid. (See also WATER QUALITY PERMITTING, p. 160.)

Statute: 77-3-301, *et seq.*, MCA

Rule: ARM 36.25.301-302, 304-306, 309-311, 313-317, 319-321, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

All coal leases must comply with the requirements of the Strip and Underground Mine Reclamation Act, (82-4-201 *et seq.*, MCA, pp. 85-87). Mining operations must be systematic to the extent possible to prevent the waste of coal and to prevent more difficult or costly mining in subsequent operations. All applications for coal leases may be made at any time during the year on a form furnished by the department. An adequate and sufficient description of the lands sought for lease must be included.

Statute: 77-3-306, MCA

Rule: ARM 36.25.304

3. Permitting Procedures

1) When sufficient applications for leases have been received, a lease sale will be announced through publication in a trade journal of general circulation in the coal mining industry or in Montana's major newspapers for four weeks preceding the sale.

2) Prior to issuing a coal mining lease, the Board of Land Commissioners must evaluate the coal and land proposed for lease in order to determine the fair market value of any coal reserves located on the land.

3) Sales of state coal leases are through competitive bidding. The Montana Department of Natural Resources and Conservation may require a bid deposit in any amount it may determine, up to 10 percent of the appraised value of the coal offered for lease.

Statute: 77-3-312, MCA

Rule: ARM 36.25.304

4. Fees

A. A fee of $50 is required for a lease application.

B. Rent is on a per-acre basis and cannot be less than $2 per acre.

C. The lessee must pay in cash a royalty on all coal produced from the leased premises at a rate of not less than 10 percent of the coal's value.

Statute: 77-3-316, MCA

Rule: ARM 36.2.1003 and 36.25.309-310

OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

1. Types of Activities Regulated

The Board of Land Commissioners leases state lands for the purpose of mining for metalliferous minerals and gems (see HARD-ROCK MINING: EXPLORATION, p. 89, for a definition). Royalties must be at least five percent of the full market value of the metalliferous minerals recovered under the lease.

Statute: 77-3-101 *et seq.*, MCA

Rule: ARM 36.25.601

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

An application for a mining lease must be made on forms furnished by the Montana Department of Natural Resources and Conservation (DNRC).

Statute: 77-3-111, MCA

Rule: ARM 36.25.604

3. Permitting Procedures

1) Leases are issued on a first-come, first-served basis.

2) When the DNRC receives an application for a lease, it may advertise for written bids on the tract of land for a reasonable time in the official county newspaper of the county where the tract is located.

3) If bids are accepted, the tract will be leased to the highest bidder unless the Board determines that the bid is not in the state's best interest.

4) Prior to the leasing of state lands for mining, the DNRC must conduct an investigation of the lands to determine the character of the lands for mining and the amount of royalty. The department may require the applicant to pay for this investigation in a sum not to exceed $500.

5) The lease will contain provisions for prospecting and mining, royalty, etc. The Board also may require payment of a bond.

Statute: 77-3-111 through 112 and 77-3-119 through 121, MCA

Rule: ARM 36.25.602 *et seq.*

OPERATIONS ON STATE LANDS: PROSPECTING

1. Types of Activities Regulated

Permits for prospecting for metalliferous metals (gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals) or gems (sapphires, rubies and other stones known as *precious* or *semiprecious*, but not including stones used in construction work) on state lands must be obtained from the Montana Department of Natural Resources and Conservation (DNRC).

Statute: 77-3-101 *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

The applicant for a prospecting permit on state lands is required to pay the issuance fee. The permittee also must pay an annual fee during the life of the permit.

Statute: 77-3-103, MCA

3. Fees

The prospecting permit fee is set by the DNRC and approved by the Board of Land Commissioners. Contact the DNRC for fee information.

Statute: 77-1-302, MCA

Rule: ARM 36.2.1003

OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NONMETALLIFEROUS MINERALS

1. Types of Activities Regulated

Leases for the mining of nonmetallic minerals (i.e., stone, limestone, oil shale, clay, bentonite, calcite talc, mica, ceramic, asbestos, marble, diatomite, gravel and sand, phosphate, sodium, potash, sulphur, fluorite, borite or any other nonmetallic mineral, exclusive of coal, oil or gas) on state lands are issued on a royalty basis for up to a 10-year period. The lessee has a preferential right of renewal of a producing lease under the readjustment of terms and conditions as the Board may determine to be necessary in the interest of the state. Monthly reports are required. The Board of Land Commissioners may issue permits on its terms and conditions to the Montana Department of Transportation, the Board of County Commissioners or other local government entity for the removal and use of stone, gravel or sand from state land for the construction and maintenance of streets, bridges, highways, etc. Compliance with air quality laws is also required. (See AIR QUALITY PERMITS, p. 31 and OPENCUT MINING p. 96).

Statute: 77-3-201 *et seq.*, 75-2-204, 75-2-211, 82-4-431 and 432, MCA

Rule: ARM 17.8.705

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

2. Application Requirements

Applications must be made on forms supplied by the Montana Department of Natural Resources and Conservation.

3. Permitting Procedures

See: OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS, p. 100.

4. Fees

An application fee of $45 is required for a nonmetalliferous lease.

Statute: 77-3-202, MCA

Rule: ARM 36.2.1003

RECORDING OF MINING CLAIMS

1. Types of Activities Regulated

A person who discovers a vein, lode or ledge of rock on federal land bearing valuable mineral deposits and who wishes to locate a mining claim must follow these procedures:

1) Post a written notice at the point of discovery;

2) Within 30 days, mark the boundaries of the site;

3) Within 60 days, comply with United States mining laws and record the location with the county clerk and recorder, who in turn must provide a copy within 20 days to the Montana Department of Natural Resources and Conservation. The claimant must also, within 90 days, record the claim with the Bureau of Land Management (BLM), Montana State Office in Billings; and

4) File an affidavit of performance of annual work with the appropriate county. Claim maintenance fees must be paid or the applicant must comply with the BLM small miner maintenance fee waiver provisions by August 31st of each year. Small miners taking advantage of the fee waiver provisions must still file annual assessment filings on or before December 30th of each year.

Statute: 82-2-101 *et seq.*, MCA

Contact: COUNTY CLERK AND RECORDER

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Montana State Office

MONTANA ADMINISTRATIVE PROCEDURES ACT

1. Types of Activities

Whenever a statute requires a license or permit decision to be preceded by a hearing, the contested case provisions of the Montana Administrative Procedures Act (MAPA) apply.

Statute: 2-4-601 *et seq.*, MCA

Rule: ARM 1.3.101 *et seq.*

2. MAPA Procedures

After reasonable notice, all parties must be afforded an opportunity for hearing. Parties are entitled to be represented by an attorney. If formal hearing procedures are followed, the rules of discovery and evidence, right to cross-examine witnesses, rules of privilege, etc., will apply except as otherwise provided by the statute. If all parties agree, less formal procedures may be followed. A hearing officer may be appointed to make findings and recommendations to the agency decisionmakers. A transcript of the hearing will be made available upon request. Within 30 days after the agency's final decision, an aggrieved party may appeal the decision to district court.

Statute: 2-4-702(2)(a), MCA

MONTANA ENVIRONMENTAL POLICY ACT

1. Types of Activities Reviewed

As outlined in the Montana Environmental Policy Act (MEPA) and each agency's MEPA Administrative Rules, all agencies of the state must conduct an environmental review when making decisions or planning activities that may have an impact on the environment. In conducting the review, the agencies must utilize a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental design arts. Depending on the scope and significance of the project, the agency must prepare either an Environmental Assessment (EA), a Mitigated Environmental Assessment (Mitigated EA) or an Environmental Impact Statement (EIS). The environmental review process applies not only to actions initiated by the agency, but also to the issuance of state permits, licenses, certificates or other entitlements for use or permission to act that may impact the environment.

2. Review Process

A. Environmental Assessments (EA)

A state agency must prepare an EA when it is considering an action that may impact the environment and it is unclear whether an EIS is needed, or it is clear that the impacts of the proposed action are not significant, or statutory requirements do not allow sufficient time for the agency to prepare an EIS. The level of analysis required for an EA depends on the complexity of the proposed action, the environmental sensitivity of the area, the degree of uncertainty as to whether the proposed action will have a significant impact on the environment and the need for and complexity of mitigation required to avoid significant impacts. At a minimum, the EA must include a description of the proposed action; the benefits and purpose of the proposed action; a list of other responsible local, state, or federal agencies; an evaluation of both cumulative and secondary impacts; an evaluation of economic and social impacts of the proposed action, including the regulatory impacts the action has on private property rights--if the agency action involves regulation of private property; an analysis of reasonable alternatives, including a no action alternative; a list of appropriate mitigation or other controls enforceable by the agency; and a finding on the need for an EIS. If an EIS is not needed, the agency must explain why an EA is sufficient.

B. Mitigated Environmental Assessment (Mitigated EA)

A state agency may, as an alternative to preparing an EIS, prepare an EA whenever the action is one that might normally require an EIS, but effects that might otherwise be deemed significant appear to be mitigable below the level of significance through design, or enforceable controls or stipulations or both imposed by the agency or other government agencies. For an EA to suffice in this instance, the agency must determine

that all of the impacts of the proposed action have been accurately identified, that they will be mitigated below the level of significance and that no significant impact is likely to occur. The agency can not consider compensation for the purpose of determining that impacts have been mitigated below the level of significance.

C. Environmental Impact Statements (EIS)

A state agency must prepare an EIS whenever an EA indicates an EIS is necessary, or when the agency determines that the proposed action is a major action that will significantly affect the environment. An EIS must discuss the environmental impact of the proposed action; any adverse environmental effects that cannot be avoided should the action be taken; alternatives to the proposed action; the relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity; and any irreversible and irretrievable commitments of resources that would be involved if the proposed action were taken.

Prior to preparing an EIS, the agency must determine the scope of the analysis. The agency must invite affected federal, state and local government agencies, Native American tribes, the applicant and interested persons and groups to identify the issues related to the proposed action that are likely to involve significant impacts, as well as those activities that are not likely to involve significant impacts. In the EIS, the agency must also consider possible alternatives to the proposed action, and whether the alternatives reduce, minimize or eliminate the regulation of private property rights--if the action involves the regulation of private property.

The agency must then prepare a draft EIS and distribute it for public comment. Depending on the comments received, the agency may revise the draft EIS and publish a final EIS, or adopt the draft as the final EIS. The final EIS must include a summary of the major conclusion and supporting information from the draft EIS; a list of all sources of oral and written comments on the draft EIS; the agency's responses to those comments; information obtained subsequent to circulation of the draft EIS; and the agency's recommendation, preferred alternative, or proposed decision together with an explanation of the reasons thereof.

3. **Actions Excluded or Exempted from Environmental Review**

The agency is not required to prepare an EA or an EIS for the following categories of action:

(a) actions exempted by statute;

(b) actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic review. In the rule or programmatic review, the agency must identify any extraordinary circumstances in which a normally excluded action requires an EA or EIS;

(c) administrative actions: routine, clerical or similar functions of a department, including but not limited to administrative procurement, contracts for consulting services and personnel actions;

(d) minor repairs, operations, or maintenance of existing equipment or facilities;

(e) investigation and enforcement: data collection, inspection of facilities or enforcement of environmental standards;

(f) ministerial actions: actions in which the agency exercises no discretion, but rather acts upon a given state of facts in a prescribed manner; and

(g) actions that are primarily social or economic in nature and that do not otherwise affect the human environment.

4. **Fees**

If the cost of preparing the EIS exceeds $2,500, the agency may assess a fee from the applicant to pay the costs of EIS preparation. The agency must notify the applicant within 30 days after receipt of the completed application if a fee will be required. A fee schedule based on the cost of the proposed project is set forth in the statute.

Statute: 75-1-203, MCA

5. **Additional Information**

When a single project requires permits from two or more agencies, a lead agency will be designated to collect the EIS fee and to coordinate preparation of the document.

Statute: 75-1-101 *et seq*, MCA

Rule:
Agriculture:
ARM 4.2.312 *et seq*
Fish, Wildlife and Parks:
ARM 12.2.428 *et seq*
Environmental Quality:
ARM 17.4.601 *et seq*
Livestock:
ARM 32.2.201 *et seq*
Natural Resources:
ARM 36.2.521 *et seq*
Transportation:
ARM 18.2.235 *et seq*

Contact: Specific Agency

ENVIRONMENTAL QUALITY COUNCIL
LEGISLATIVE SERVICES DIVISION
Legislative Environmental Policy Office

OIL AND GAS

GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

A person planning to conduct geophysical exploration must obtain an exploration permit from the county clerk and recorder.

Statute: 82-1-101, MCA

Contact: County Clerk and Recorder

2. Application Requirements

1) The applicant must file a notice of intent with the clerk and recorder in each county where the exploration will be conducted. If seismic exploration is planned, a copy of the notice of intent must also be filed with the Board of Oil and Gas Conservation (BOGC).

2) A surety bond must be filed with the Secretary of State to indemnify property owners against property damage.

3) When notified that the surety bond has been filed, the county clerk and recorder will issue an exploration permit valid for the calendar year in which it is issued. The county clerk then notifies the BOGC, which checks whether the applicant is in compliance with all applicable laws and rules.

4) A report must be filed with the county clerk and recorder within three months after any firing of shot points in seismic exploration. Shot holes must be plugged as specified by the BOGC unless otherwise agreed to between the surface owner and the company.

5) Before beginning operations, the person must notify any surface users of the land of the schedule and, on request, the location(s) of planned exploration activities.

6) Exploration crews operating in the state must comply with crew identification requirements established by the BOGC.

Statute: 82-1-101, 103 through 108, MCA

Rule: ARM 36.22.502-504

Contact: COUNTY CLERK AND RECORDER

BOARD OF OIL AND GAS CONSERVATION
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

SECRETARY OF STATE
Business Services Bureau

4. **Fees**

The fee for a geophysical exploration permit is $5 per year.

Statute: 82-1-105, MCA

OIL AND GAS

1. **Types of Activities Regulated**

Notices of intention to explore and to drill for oil and gas must be filed with the Board of Oil and Gas Conservation (BOGC), and drilling permits must be obtained. Before issuing a permit, the Board must conduct an environmental assessment of the proposed drilling operation. Wells must comply with spacing units and be operated in compliance with the Board's regulations and established pooling orders. Operators must also comply with the Montana Department of Environmental Quality's water pollution regulations; for example, if the proposed operation will discharge fluids into surface waters, a water pollution discharge permit must be obtained (see WATER QUALITY PERMITTING, p. 160). A public utility may apply to the Board for certification of eminent domain power to maintain underground gas storage reservoirs. Wells that inject waters produced with oil and gas into underground strata for purposes of disposal or enhanced recovery must receive a permit from the U.S. Environmental Protection Agency, Underground Injection Control Program, and approval from the BOGC. Waste of oil and gas is prohibited.

Statute: 82-11-101 *et seq.*, 82-10-305, MCA

Rule: ARM 36.22.601 *et seq.*

Contact: BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Oil and Gas Conservation Division

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. **Application Requirements**

A. A notice of intention to drill must include information identifying the area where the proposed activity will occur. Logs of the activity must be kept; surface lands restored to their previous grade and productive capability; fresh water supplies protected; and wells drilled, cased, operated and plugged in accordance with Board rules. The public may have access to records submitted to the Board. A bond must be posted to guarantee proper abandonment procedures. No exploration or development drilling may take place until a permit is issued.

B. After the permit is issued, an oil or gas operator or developer must give advance written notice of the proposed drilling operations to the surface owner of record and any purchaser under contract for deed. This notice must sufficiently disclose the plan of operation and must be given no more than 90 days and no fewer than 10 days before any activity on the land surface begins. The owner or operator of an oil or gas well on state-owned land must notify the Montana Department of Natural Resources and Conservation in advance of any operations.

Statute: 82-10-503, 82-11-122 and 123, MCA

Rule: ARM 36.22.601

3. **Permitting Procedures**

A determination is made regarding whether the location is legal, and the plan of work, including spacing of wells and casing proposals, is reviewed. If the project complies with applicable statutes, rules and regulations, a permit is issued.

Statute: 82-11-115, MCA

4. **Fees**

The required permit fees for oil or gas well drilling are:

A. For each well with an estimated depth of 3,500 feet or less, $25;

B. From 3,501 feet to 7,000 feet, $75;

C. 7,001 feet and deeper, $150.

Statute: 82-11-134, MCA

Rule: ARM 36.22.603

OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

A seismic exploration permit must be obtained from the Montana Department of Natural Resources and Conservation (DNRC) to explore for oil and gas by geophysical methods on state-owned lands where no oil and gas lease is held. An applicant must be qualified to do business in the state; post a surety bond; and provide 1) proof of notification to the surface owner or lessee, 2) the name and address of the exploration firm and 3) the legal description of the area to be explored. A $50 fee must accompany the application and a charge of $50 per hole or $100 per mile will be assessed. DNRC regulations set forth restrictions and requirements relating to surface disturbances, proximity to surface water and structures, fire prevention, operations and plugging and abandonment of shot holes. A permit is valid for one year. Reports must be submitted to the DNRC within six months after termination of a permit.

Statute: 77-3-402, MCA

Rule: ARM 36.25.203-204, 217, 223-225 and 230-237

OPERATIONS ON STATE LANDS: OIL AND GAS

1. Types of Activities Regulated

The Board of Land Commissioners is authorized to lease any state-owned lands for the purpose of oil and gas exploration or drilling and development. Corporations not incorporated in Montana must obtain a certificate of authority to transact business in the state from the Secretary of State prior to applying for a lease.

Statute: 77-3-401, MCA

Rule: ARM 36.25.204

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

SECRETARY OF STATE
Business Services Bureau

2. Permitting Procedures

1) A person wishing to lease state lands for oil and gas operations must submit an application on forms furnished by the Montana Department of Natural Resources and Conservation.

2) Sale of oil and gas leases are normally held once each quarter (March, June, September and December). The sale of each lease takes place through competitive oral bidding.

3) Notice of each sale is published in the *Montana Oil Journal* or in one of the state's general circulation publications.

4) The primary term of an oil and gas lease may be for no more than 10 years and no less than five years unless the Board deems that a shorter term is necessary. An oil and gas lease issued on state lands may not exceed 640 acres, except that any section surveyed by the United States containing more than 640 acres may be included under one lease. Leased lands must be generally compact and contiguous.

5) Owners of state oil and gas leases may enter into agreements with others for drilling and other operations. Pooling agreements are also possible. The Board may approve assignment of oil and gas leases to qualified assignees.

6) The owner or operator of an oil or gas well on state-owned land must notify the DNRC in advance of any operations.

Statute: 77-3-404, 405, 421, 429, 430 and 438, MCA

Rule: ARM 36.25.205 and 206

3. Fees

The fee for an oil and gas lease application is $15 and $25 for a lease issuance fee. The lease rental fee is $1.50 per acre but not less than $100 per year. The delay drilling penalty is $1.25 per acre in year 6 of the lease and $2.50 per acre in years 7 through 10 of the lease in addition to the rental fee. Royalties are 12.5 percent on gas and 13 percent on oil.

Rule: ARM 36.25.205, 208 and 210

OPERATIONS ON CITY, COUNTY OR SCHOOL DISTRICT LANDS

1. Types of Activities Regulated

The governing body of any city, county or local school district may lease its property for oil and gas development. The term of the lease may not exceed 10 years and royalties must be at least 12.5 percent.

Statute: 82-10-201 through 204, MCA

Contact: Local Governing Body

UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners is authorized to lease state lands for the underground storage of natural gas.

Statute: 77-3-501 *et seq.*, MCA

Contact: DEPARTMENT NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Permitting Procedures

A. The Board may order a hearing prior to issuance of a lease. A lessee must furnish a bond to indemnify the state against damage or loss.

B. Lease terms may not exceed 20 years. The lessee has a preferential right to renewal.

3. Criteria

The lessee must use all reasonable precautions to prevent waste of oil or gas developed on the land, the entry of water into storage formation, or injury to oil or gas deposits.

PARKS AND RECREATION

BOATING

1. Types of Activities Regulated

All owners of motorboats and owners of sailboats 12 feet in length or longer must obtain a certificate of ownership (title) and a certificate of number (identifying the boat's registration, decal, hull and title numbers) from the local county treasurer's office prior to operating the boat in state waters. License decals must be displayed on each side of the forward half of the vessel, 3 inches to the rear of its identifying numbers. Out-of-state boats used in Montana for more than 90 consecutive days must also be registered at the county treasurer's office in the county where the boat will be used most often.

Statute: 23-2-508 *et seq.*, MCA

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

2. Permitting Procedures

An application for a certificate of ownership must be made at the county treasurer's office on forms provided by the Montana Department of Justice. Once received, the certificate of ownership is valid as long as the person holding it owns the vessel. An application for a certificate of number (registration decal) is also made at the county treasurer's office and expires December 31st of each year. Certificates of number must be renewed annually.

Statute: 23-2-508, MCA

3. Fees

The certificate of ownership fee (a one-time fee until ownership changes) is $5. The annual boat registration and decal fee is $2.50. A fee in lieu of property tax is also required, based on the vessel's length and/or age, for motorboats 10 feet in length or longer, sailboats 12 feet in length or longer, personal watercraft, motorized canoes, motorized rubber rafts and motorized pontoons.

Statute: 23-2-508(8), 512, 516, 517 and 15-16-202, MCA

3. **Additional Information**

A. Boat Racing

Written permission from the Montana Department of Fish, Wildlife and Parks is required for any person who plans to conduct a boating race, regatta or other marine event on Montana's waters. Letters of application should be sent to the department at least 30 days before the scheduled event.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

B. Noise Restrictions

Motorboats or personal watercraft that emit noise greater than 86 dbA when measured at a distance of 50 feet or emit exhaust noise in excess of 90 dbA when measured at a distance of 1 meter from the muffler at idle speed are considered a public nuisance and constitute disorderly conduct. Noise standards for certain lakes are more restrictive because of population density and heavy recreational use. Motorboats or personal watercraft operated on Flathead Lake, Echo Lake or Swan Lake may not operate near the shoreline if the noise level is greater than 75 dbA measured at the shoreline.

Statute: 23-2-521(3), 523(9) and 526(3), MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

C. Smith River Float Permits

A permit is required for private floats on the Smith River. From April to October, a per person fee is charged. Applicants must send a completed application form, a list of up to 3 preferred launch dates and the required fee to the DFWP Great Falls Regional Office by February 15th. Applications received by this date will be entered into a random drawing, with preferred launch dates awarded in the order they are drawn. Following the drawing, applications are considered on a first-come, first-served basis.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Region 4, Great Falls

CAMPGROUNDS - TRAILER COURTS - WORK CAMPS - YOUTH CAMPS

1. Types of Activities Regulated

Licenses from the Montana Department of Public Health and Human Services (DPHHS) are required for operating campgrounds, trailer courts, work camps and youth camps and validation must be obtained from the local health officer. Acceptable plans must be submitted to the DPHHS and the local health department. Operators of water supply systems for trailer courts must be certified by the Board of Water and Wastewater Operators. Trailer courts, work camps and campgrounds may also require review under the subdivision laws. (See SUBDIVISIONS, p. 136, and PUBLIC WATER SUPPLY, p. 151).

Statute: 50-52-101 *et seq.*, MCA

Rule: ARM 16.10.701 *et seq.*: trailer courts and tourist campgrounds
ARM 16.10.901 *et seq.*: work camps
ARM 16.10.801 *et. seq.*: youth camps

Contact: LOCAL BOARD OF HEALTH

LOCAL CITY-COUNTY
Environmental Health Department

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Food and Consumer Safety Section

2. Application Requirements

Application for a license to operate a tourist campground, trailer court or camp must be made to the DPHHS on appropriate forms. All applicants must prepare and submit scaled layout plans of proposed facilities to the DPHHS and the local health authority for approval before beginning construction.

Statute: 50-52-201 and 203, MCA

3. Permitting Procedures

1) The local health officer must validate the license within 15 days after issuance by the DPHHS. If the local health officer refuses to validate the license on finding that not all conditions of the license have been met, the health officer must notify the applicant and the department in writing, stating the reasons for the refusal.

2) A refusal to validate by the local health officer may be appealed to the local Board of Health within 30 days.

Statute: 50-52-208 and 209, MCA

4. **Fees**

The fee for an annual license is $40. A late fee penalty of $25 may be assessed for failure to renew a license prior to its expiration date.

Statute: 50-52-202, MCA

OFF-HIGHWAY VEHICLES

1. **Types of Activities Regulated**

No off-highway vehicle may be operated on public lands, trails, easements, lakes, rivers or streams unless a certificate of ownership and a registration decal have first been obtained from the county treasurer's office. Registration decals must be displayed at a conspicuous place on the vehicle as proof that fees have been paid for the current year.

An off-highway vehicle owned by a nonresident that is not registered in another state may not be operated in Montana without a nonresident temporary-use permit.

Statute: 23-2-801 *et seq.*, MCA

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

2. **Permitting Procedures**

Application for a certificate of ownership and registration decal must be made to the county in which the owner resides. Once received, the certificate of ownership is valid as long as the person holding it owns the vehicle. Registration decals expire on December 31st of the year of issuance and must be renewed annually.

Nonresident temporary-use permit applications are available at locations prescribed by the Montana Department of Fish, Wildlife and Parks, and are valid for a consecutive 30 day period.

Statute: 23-2-811(2) and 817(2), MCA

3. Fees

The one-time fee for a certificate of ownership is $4; the annual registration fee is $2, the annual decal fee is $5; and the fee in lieu of tax is $19 for vehicles less than 3 years old and $9 for all others. The fee for a nonresident temporary-use permit is $5.

Statute: 23-2-803, 804(3), 811(7), 814 and 817, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

SNOWMOBILES

1. Types of Activities Regulated

Before operating a snowmobile on public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways, the owner must obtain a certificate of ownership and registration decal from the local county treasurer's office which must be displayed in a conspicuous place on the cowl of the vehicle.

A valid driver's license is required to operate a snowmobile on a public roadway unless the operator has taken an approved snowmobile safety education course and is in the presence and under the supervision of a person who is 18 years of age or older.

Nonresidents who own and wish to operate an out-of-state snowmobile in Montana are not subject to the certificate of ownership and registration requirements, but must obtain a nonresident temporary-use permit prior to operation.

Statute: 23-2-601 *et seq.*, MCA

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

2. Permitting Procedures

Application for a certificate of ownership and registration decal must be made to the county in which the owner resides. Registration decals expire on June 30th of the year of issuance and must be renewed annually.

Nonresident temporary-use permit applications are available at locations prescribed by the Montana Department of Fish, Wildlife and Parks, and are valid for a consecutive 30 day period.

Statute: 23-2-611, MCA

3. **Fees**

The application fee for a certificate of ownership is $5 and for the registration decal, $5. The annual fee in lieu of property tax is $22 for vehicles less than four years old and $15 for all others. Proof of payment of the registration decal fees and the annual fee in lieu of property tax is required to obtain a registration decal. The nonresident temporary use permit fee is $6.

Statute: 23-2-611(8) and 23-2-615 through 616, MCA

4. **Additional Information**

A. Exemptions

A certificate of ownership is not required for a snowmobile purchased prior to April 16, 1993, if the use of the snowmobile is restricted to private land.

B. Noise Restrictions

Snowmobiles must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order. In addition, the following noise levels, measured at a distance of 50 feet, may not be exceeded:

1) 82 dB(A) for machines manufactured after June 30, 1972, but prior to June 30, 1975, and

2) 78 dB(A) for machines manufactured after June 30, 1975.

The noise restrictions do not apply to snowmobile races or competitive events held on private lands or those held on public lands provided consent from the appropriate government unit is obtained and the total sound produced does not exceed 50 dB(A) at any point 50 feet or more outside the area under the control of the sponsoring entity.

Statute: 23-2-634, MCA

Rule: ARM 12.6.602

STATE PARKS

1. Types of Activities Regulated

Permits are required for day-use or overnight camping in most state parks. In addition, the Montana Department of Fish, Wildlife and Parks regulates certain park activities, for example, the number of vehicles per camp-site and the areas where campfires may be burned.

2. Fees

Permit fees vary by area and are paid at the park entrance. Annual park passports are available from the DFWP.

SOLID WASTE - HAZARDOUS WASTE

HAZARDOUS MATERIALS MANAGEMENT

A permit is required from the Montana Department of Justice, Fire Prevention and Investigation Bureau to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105-C of the Uniform Fire Code. A permit is also required for a major change to a facility with hazardous materials in use or storage in excess of the amounts listed in Table 105-C.

Rule: U.F.C. § 105.8 h.1

Contact: DEPARTMENT OF JUSTICE
Division of Criminal Investigation
Fire Prevention and Investigation Bureau

HAZARDOUS WASTE DISPOSAL

1. Types of Activities Regulated

A waste meets the definition of hazardous waste if it is included in an EPA list of specific hazardous wastes, demonstrates any of the characteristics of ignitability, corrosiveness, reactivity or toxicity under standard test procedures, or is a mixture of any waste and one or more listed hazardous wastes. All hazardous wastes may only be transported, stored, treated or disposed of in a manner consistent with state and federal law. Hazardous wastes must be properly contained and labeled.

A permit from the Montana Department of Environmental Quality (DEQ) is required to construct or operate a hazardous waste management facility. A disclosure statement is required for all hazardous waste management facility permit renewals, reissuances and modifications for permits issued after January 1, 1995 and for permits issued before January 1, 1995 if the new permit is for a change of owner or operator. The disclosure statement must provide information on whether, within the five years before the date of application, the applicant had a record of complaints and convictions for the violation of environmental protection laws.

Persons who transport hazardous wastes are required to notify the DEQ and to obtain an identification number. Persons who generate hazardous waste (with certain exceptions) are required to maintain an annual generator registration and to pay a registration fee each year, in addition to obtaining an identification number.

Certain wastes are exempt from the regulations of the Montana Hazardous Waste Act: for information on these exempt wastes, contact the DEQ.

Statute: Montana Hazardous Waste Act, 75-10-401 *et seq.*, MCA

Rule: ARM 17.54.101 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

2. Application Requirements

The permit application is divided into 2 parts, A and B. Part A is a short standard form calling for general information which includes the name of the applicant and a description of the activities of the facility.

Part B makes up the bulk of the RCRA (federal Resource Conservation and Recovery Act) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements. This part of the application requires the owner or operator to provide information on the nature of the facility and its location, the scope of the operation, the waste analysis plan, security procedures, an inspection schedule, a contingency plan, personnel training, closure and post-closure care, insurance and financial guarantees and other items as determined by state and federal law.

A permit may be issued for a period specified by the DEQ, and is subject to either renewal or revocation depending on compliance with the permit's provisions.

Statute: 75-10-405 and 406, MCA

Rule: ARM 17.54.108, 130 and 131

3. Permitting Procedures

1) The DEQ may, in the event of an imminent and substantial danger to public health or the environment, issue a temporary emergency permit to any person for treatment, storage or disposal of hazardous waste or to any facility to handle hazardous waste not covered by the existing facility permit. Such emergency permits may be oral or written, may not exceed 90 days in duration and may be terminated by the DEQ at any time prior to 90 days.

2) The DEQ may grant permits to hazardous waste management facilities if the owner or operator already holds a license or permit from the DEQ pursuant to other state environmental statutes, or for an interim period, until final administrative action on a permit application is made.

3) If it is determined that an application for a certificate under the Montana Major Facility Siting Act will result in the generation, transportation, storage or disposal of hazardous wastes, the DEQ must conduct its review concurrently with the studies of air and water quality conducted under the provisions of the Montana Major Facility Siting

Act. A decision to grant or deny a permit for the treatment, storage or disposal of hazardous wastes is appealable concurrently with and subject to the same procedures established for the appeal of the DEQ's air and water quality certification decision under the Montana Major Facility Siting Act. (See MAJOR FACILITY SITING, p. 44.)

Statute: 75-10-406 and 407, MCA

4. **Fees**

The DEQ assesses an application fee and a permit modification fee to defray the costs of processing applications for permits or permit modifications.

Statute: 75-10-405(j), 432 and 433, MCA

Rule: ARM 17.54.138

5. **Criteria**

The DEQ may deny an application or impose conditions on a permit if the applicant, within the five years before the date of application, has a record of complaints and convictions for the violation of environmental protection laws. In making the decision to deny a permit or impose conditions, the department will consider the number and severity of the violations, the culpability and cooperation of the applicant and other factors.

Statute: 75-10-427, MCA

6. **Additional Information**

A. Generators/Transporters

Generators and transporters of hazardous waste must comply with state and federal reporting requirements, including the use of a manifest system for tracking the movement of all hazardous wastes. Transporters who plan to construct and operate a commercial hazardous waste transfer facility must conduct a public hearing in the nearest community to provide information and respond to questions on the proposed facility. A transfer facility must also comply with regulations established by the DEQ.

Rule: ARM 17.54.401 *et seq.*, 17.54.501 *et seq.*

B. Variances

A person who is a generator or transporter of hazardous wastes or who owns or operates a hazardous waste management facility may apply to the Board of

Environmental Review for a variance or partial variance from the application of or compliance with any requirement of the Montana Hazardous Waste Act or any rule adopted under the act. The Board may grant a variance or partial variance if it finds that 1) the applicant's actions or proposed actions regarding generation, transportation, treatment, storage or disposal of hazardous wastes do not constitute a danger to public health or safety or cause substantially adverse environmental effects and 2) the application of or compliance with the requirement or rule would produce unreasonable hardship to the applicant without equal or greater benefits to the public.

Statute: 75-10-408, MCA

INCINERATORS - COMMERCIAL MEDICAL WASTE

Permits for commercial medical waste incinerators are required under both the Montana Clean Air Act (see AIR QUALITY PERMITS, p. 31) and the Montana Solid Waste Management Act (see SOLID WASTE, p. 122.) The Board of Environmental Review also has the authority to adopt specific rules regulating medical waste incinerators and to establish additional permit requirements because of the potential health risks from associated substances. The definition of commercial medical waste incinerator does not include hospital or medical facilities that primarily incinerate medical waste generated onsite.

Statute: 75-2-231, MCA.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

INCINERATORS - HAZARDOUS WASTE/BOILERS AND INDUSTRIAL FURNACES (See also HAZARDOUS WASTE DISPOSAL, p. 122)

1. Types of Activities Regulated

A permit is required for any boiler and industrial furnace that burns hazardous waste or for any hazardous waste incinerator. The owner or operator must submit an application to the Montana Department of Environmental Quality (DEQ) prior to construction or operation. In addition, the applicant must obtain an air quality permit, or if applicable, an air quality permit modification from the DEQ (see AIR QUALITY PERMITS, p. 31).

Statute: 75-10-401, *et seq.*

Rule: ARM 17.54.701 *et seq.*: hazardous waste incinerators
ARM 17.54.1101 *et seq.*: BIFs

40 C.F.R. § 264, subpart O: hazardous waste incinerators
40 C.F.R. § 266, subpart H: BIFs

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air and Waste Management Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. Application Requirements

The permit application is divided into 2 parts, A and B. Part A is a short standard form calling for general information which includes the name of the applicant and a description of the activities of the facility.

Part B makes up the bulk of the RCRA (federal Resource Conservation and Recovery Act) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements. This part of the application requires the owner or operator to provide information on the nature of the facility and its location; the scope of the operation; the waste analysis plan; security procedures; an inspection schedule; a contingency plan; personnel training; closure and post-closure care; insurance and financial guarantees; and other items as determined by state and federal law.

In addition, Part B must contain the *trial burn plan* describing the engineering details of the system and outlining a plan for demonstrating compliance with performance standards, and for establishing limits on certain operating conditions that will become part of the facility's permit.

Statute: 75-10-405 and 406, MCA

Rule: ARM 17.54.130, 17.54.131, 17.54.136: incinerators
17.54.146: BIFs

3. Permitting Procedures

1) The applicant must submit parts A and B of the application to the DEQ.

2) The department conducts a completeness review of the application to determine that all required information and documents have been included in the application. If the application is incomplete, the agency issues a Notice of Deficiency (NOD). When the applicant has submitted all the required information and documentation, the DEQ will issue a notice of completeness.

3) The DEQ then conducts a technical review, analyzing the technical information submitted in the application to determine whether the facility will meet the

appropriate requirements. Additional NODs may be issued.

4) The DEQ will then issue a draft permit or a notice of denial.

5) Public notice is given and a public hearing is held.

6) The DEQ then makes a final decision and issues a final permit. The department must respond to public comments on the final permit and must indicate where changes to the draft permit have been made.

7) If applicable, appeals are made. The facility owner/operator may challenge the denial of a permit or a condition of a permit.

4. **Fees**

Statute: 75-10-405(j), 75-10-432 and 433, MCA

Rule: ARM 17.54.138

MOTOR VEHICLE WRECKING FACILITIES

1. **Types of Activities Regulated**

An annual license from the Montana Department of Environmental Quality (DEQ) is required to operate a motor vehicle wrecking facility. Possession at a single location of four or more junk vehicles is presumptive evidence that the possessor is operating a motor vehicle wrecking facility. One or more junk vehicles at a single location must be shielded from public view.

Statute: 75-10-502, 505 and 511, MCA
ARM 17.50.205

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

2. **Application Requirements**

An application for a license to operate or maintain a motor vehicle wrecking facility or a local junk vehicle program can be obtained from the DEQ and must include certification from the appropriate local government officials that the proposed facility does not violate local zoning ordinances (see ZONING, p. 30). The license expires on December 31st of the year issued.

Statute: 75-10-504, 511, 516, MCA

Rule: ARM 17.50.201 and 202

3. **Permitting Procedures**

1) The DEQ may deny, suspend or revoke a motor vehicle wrecking facility's license for reasons of theft, forgery, omission, fraud or rule violation.

2) The DEQ's decision to deny, suspend or revoke a license may be appealed to the Board of Environmental Review within 30 days of the decision.

Statute: 75-10-514 and 515, MCA

Rule: ARM 17.50.201 and 206

4. **Fees**

The DEQ requires an annual fee of $50 for a wrecking facility license.

Statute: 75-10-511, MCA

5. **Additional Information**

The owner of a motor vehicle wrecking facility must keep a record of every junk vehicle obtained and mail a quarterly report to the Montana Department of Justice, Motor Vehicle Division with the required information.

Contact: DEPARTMENT OF JUSTICE
Motor Vehicle Division
Title and Registration Bureau

Statute: 75-10-512 and 513, MCA

Rule: ARM 17.50.207

RADIOACTIVE WASTE DISPOSAL

1. **Types of Activities Regulated**

Disposal of *large quantity* radioactive material, byproduct material and special nuclear material is prohibited in Montana. The prohibition includes nuclear fuels, nuclear power plant wastes and

uranium or thorium mill tailings. Certain special use materials (educational, scientific, research, medical, etc.) are exempt from this prohibition.

Statute: Montana Nuclear Regulation Act, 50-79-101 and 302, MCA

Contact: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Quality Assurance Division
Licensure Bureau

SOLID WASTE DISPOSAL (NONHAZARDOUS)

1. Types of Activities Regulated

A license is required from the Montana Department of Environmental Quality (DEQ) for the disposal of solid waste and for the operation of a solid waste management system. In certain circumstances, the on-site disposal of solid wastes from a person's household or farm and certain categories of on-site industrial waste disposal operations are excluded from this licensing requirement. Sites are approved and licensed by the DEQ and validated by local health officials. *Solid waste* means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply treatment plants or air pollution control facilities; construction and demolition wastes; dead animals; discarded home and industrial appliances; and wood products or byproducts and inert materials. Solid waste does not mean municipal sewage, industrial wastewater effluents, mining wastes, slash and forest debris regulated by the Montana Department of Natural Resources and Conservation, or marketable wood byproducts.

Megalandfills--landfills that receive more than 200,000 tons of solid wastes per year or monofills that receive more than 35,000 tons of either fly ash or bottom ash per year--are subject to additional siting and licensing controls. (An existing solid waste landfill that accepted 100,000 tons a year of solid waste as of December 31, 1991 is not considered a megalandfill until it accepts more than 300,000 tons a year of solid waste). The Board of Environmental Review (BER) must issue a certificate of site suitability before a megalandfill may be constructed. Social, environmental and economic impacts of the proposed landfill must be considered in the review process. The DEQ's licensing process and the BER's certification process must proceed concurrently and in a coordinated fashion.

Statute: Solid Waste Management Act, 75-10-201 *et seq.*, MCA
Megalandfill Siting Act, 75-10-901 *et seq.*, MCA

Rule: ARM 17.50.501 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

2. Application Requirements

A person applying for a license to conduct solid waste disposal or to operate a solid waste management system must submit a license application to the DEQ on forms furnished by the department. The application must include the applicant's name and business address, the location of the proposed facility, the plan of operation and other information as requested.

Statute: 75-10-221(2) and (3), MCA

Rule: ARM 17.50.508, 509

3. Permitting Procedures

A. Time Requirements: The DEQ will notify the applicant if additional information is required. The department must notify the local health officer within 15 days of receipt of the completed application.

B. An environmental assessment (EA) is conducted during the solid waste application review process. If indicated by the EA, an Environmental Impact Statement (EIS) may be required (see MONTANA ENVIRONMENTAL POLICY ACT, p. 105).

C. Public Notification, Hearings, Appeal of Denial

1) The DEQ must send one copy of its proposed decision to the applicant and three copies to the local health officer for public posting.

2) Publication of the proposed decision is required in local newspapers.

3) The public has 30 days to submit written comments.

4) The DEQ notifies the local health officer of the final decision after the 30-day comment period. The local health officer then has 15 days to validate or refute the decision.

5) If either the DEQ or the local health officer denies the application for a license, the applicant has 30 days to appeal the decision.

Statute: 75-10-222 through 224, MCA

Rule: ARM 17.50.513, 514

4. Fees

The department charges a license application fee for any new solid waste management facility or for a substantial change to an existing facility. The department also charges an annual license renewal fee

to cover the costs of annual renewals and inspections. Disposal facilities pay a base fee for the type and size of the facility, and an annual per-ton fee on wastes received by the facility. This disposal fee is set at 31 cents per ton for in state waste, and an additional 28 cents for out-of-state waste. All fees are deposited into an earmarked revenue account and are used to support a portion of the costs of the DEQ's solid waste program.

Statute: 75-10-115 and 118, MCA

Rule: ARM 17.50.411 and 415

5. **Additional Information**

A. Variances

Any person may apply to the Board of Environmental Review for a variance from the rules issued pursuant to the Solid Waste Management Act. The Board may grant a variance if it finds that 1) failure to comply with the rules does not result in a danger to public health or safety, or 2) compliance with the rules would produce hardship to the applicant without producing benefits to the public health and safety that outweigh the hardship.

Statute: 75-10-206, MCA

Rule: ARM 17.50.602-603, 605-606, 609-611

B. Cesspools, Septic Tanks and Privies

Persons engaged in the business of cleaning cesspools, septic tanks or privies and the disposal of septage therefrom must be licensed by the Montana Department of Environmental Quality, Community Services Bureau. An exclusion is made for the owner or lessee of a property disposing of septage on their own land as long as it does not create a nuisance, a public health hazard or contaminate state waters (see SEPTIC TANKS, CESSPOOLS AND PRIVIES, p. 153).

Statute: 37-41-101, 105, MCA

Rule: ARM 17.50.805

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

UNDERGROUND STORAGE TANKS

TANK INSTALLERS AND INSPECTORS

1. Types of Activities Regulated

Those who install, close, modify or inspect underground storage tanks must have a valid license issued by the Montana Department of Environmental Quality (DEQ). Within 30 days of completion of an UST system installation or closure, the licensee must submit a completed checklist and a copy of the signed installation or closure permit to the department and to the owner or operator of the tank. A permit is required from the DEQ for most tank work on certain tanks (see exemptions on the following page).

Statute: Montana Underground Storage Tank Installer Licensing and Permitting Act, 75-11-201 *et seq.*, MCA

Rule: ARM 17.56.1201 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Remediation Division
Technical Services Bureau

2. Application Requirements

An applicant for an installer's or inspector's license must be at least 18 years of age, submit a license application on a form provided by the DEQ, pass the licensing examination and pay the required fee.

Statute: 75-11-210, MCA

Rule: ARM 17.56.1206-1216

3. Fees

The installer's license application and examination fee is $100 and the annual renewal fee is $50. Fees are waived for inspectors.

Rule: ARM 17.56.1217

TANK OWNERS AND OPERATORS

1. Types of Activities Regulated

A. Owners and operators of underground storage tanks (USTs) and aboveground storage tanks with underground lines must register each tank with the Montana Department of Environmental Quality (DEQ). UST maintenance and operation fees are assessed annually. Permits are required from the DEQ for tank or piping installations or closures, for modifications, linings or repairs and for the installation of cathodic protection (to prevent corrosion) and vapor or ground water monitoring wells at existing installations. (See also TANK INSTALLERS AND INSPECTORS, p. 132.) Tank operations must comply with the State Fire Code.

B. By December 22, 1998, all existing underground storage tank systems must meet the new performance standard requirements described in ARM 17.56.201, the upgrade requirements in 17.56.202 (2-4) or the closure requirements in 17.56.601 *et seq.* and 17.56.*701* et seq.

C. Exemptions: Certain underground tanks are exempt from the provisions of the Montana Underground Storage Tank Act, including: noncommercial motor fuel tanks and heating oil tanks of and their underground piping provided that a) they are located at farms or residences, b) they have a capacity of 1,100 gallons or less and c) they were installed prior to April 27, 1995. Underground lines connected to aboveground tanks at petroleum refineries are also exempt.

Statute: Montana Underground Storage Tank Act, 75-11-501 *et seq.*, MCA

42 U.S.C. §§ 6901-6987, Federal Resource Conservation and Recovery Act

Rule: ARM 17.56.101 *et seq.*, 17.56.1222

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Remediation Division
Technical Services Bureau

DEPARTMENT OF JUSTICE
Division of Criminal Investigation
Fire Prevention and Investigation Bureau

2. Application Requirements

Permit applications for the tank work listed in *1. A* above must be submitted at least 30 days prior to the beginning of these operations. In the event of an emergency requiring immediate UST system work, the DEQ may issue an emergency permit.

Rule: ARM 17.56.1222 and 17.56.1227

3. Installation, Operation and Closure Requirements

Prior to installation of an underground storage tank system or underground piping for an aboveground storage tank system, a permit must be obtained from the DEQ. The installation must either be completed by a licensed installer, or if the installation is conducted by the owner or operator, then the work must be inspected by a licensed inspector. The owner must certify that the tank and piping are properly installed according to industry codes, that the tank and piping are protected from corrosion, that the system will be monitored to detect a release within a 30 day period and that the tank is equipped with devices that prevent spills and overfills. An inspector, installer, owner or operator must notify the department of a suspected or actual leak within 24 hours of discovery. The owner or operator must submit proof of financial responsibility guaranteeing that cleanup costs can be paid should a tank leak occur. (See PETROLEUM TANK RELEASE CLEANUP FUND, p. 135.)

A permit is required from the DEQ prior to initiating the closure of an UST system. The system must either be closed by a licensed UST remover, or if the operation is conducted by the owner or operator, then the work must be inspected by a licensed inspector. An environmental site assessment must be conducted which includes the collection and analysis of soil samples to evaluate the condition of the site after tank closure or removal.

Rule: ARM 17.56.701-705 and 17.56.1201

4. Fees

The annual registration fee for a tank with a capacity of 1,100 gallons or less is $20, and for a tank with a capacity greater than 1,100 gallons is $50.

Permit review and inspection fees are assessed for tank installations, closures and modifications. Fees vary according to the type of tank and the intended work.

Rule: ARM 17.56.1001 and 17.56.1229-1232

5. Variances

A person may apply for a variance from a requirement or procedure of the underground storage tank program by requesting the approval of an alternative from the DEQ. Certain conditions apply.

Rule: ARM 17.56.105

6. **Additional Information**

Petroleum Tank Release Cleanup Fund:

The state has established a Petroleum Tank Release Cleanup Fund to financially assist owners and operators with the cleanup and damages caused by an accidental tank release. Owners and operators are eligible for reimbursement for eligible costs if:

1) the release was discovered on or after April 13, 1989;

2) the department is notified of the release in the manner and within the time provided by law or rule;

3) the department has been notified of the existence of the tank in the manner required by the department rule or has waived the requirement for notification;

4) the release was accidental; and

5) with the exception of the release, the operation and management of the tank complied with applicable state and federal laws and rules when the release occurred and remained in compliance following detection of the release.

If money is available in the fund, and if the owner or operator is eligible, the fund reimburses a portion of the department-approved cleanup and third party damage costs resulting from leaks from qualifying tanks.

Generally, eligible corrective action costs of any small farm or residential fuel tank or heating oil tank regulated by the Montana Underground Storage Tank Act, are reimbursed up to $495,000, with the first $10,000 in costs being shared 50/50 with the owner/operator. If these tanks are double-walled systems, the fund reimburses 100% of the eligible costs up to $500,000.

Generally, eligible corrective action costs from other and/or larger (more than 1,100 gallons capacity) petroleum storage tanks regulated by the act are reimbursed up to $982,500, with the first $35,000 in costs being shared 50/50 with the owner/operator. If these tanks are double-walled systems, the fund reimburses 100% of the eligible costs up to $1,000,000.

Statute: 75-11-301 through 321, MCA

Rule: ARM 17.58.311-340

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Remediation Division
Technical Services Bureau

PETROLEUM TANK RELEASE COMPENSATION BOARD

SUBDIVISIONS

SALE OF SUBDIVIDED LAND

1. Types of Activities Regulated

Subdivisions of five or more parcels that are to be offered for sale or lease outside of Montana, with one or more parcels less than five acres in size, must be registered with the Board of Realty Regulation. A notice of intention must be filed and annual reports are required. In addition, if the subdivision involves 100 or more lots, not all of which are 20 or more acres, the developer must register the subdivision with the U.S. Department of Housing and Urban Development.

Statute: 76-4-1101 *et seq.*, MCA
Interstate Land Sales Act, 15 USC 1701 *et seq.*

Rule: ARM 40.56.410

Contact: DEPARTMENT OF COMMERCE
Division of Professional and Occupational Licensing
Board of Realty Regulation

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Interstate Land Sales Registration Division
Office of Consumer and Regulatory Affairs

2. Application Requirements

A. Prior to the time when subdivided lands are to be offered for sale or lease outside Montana, the owner, their agent, or the subdivider must notify the Board in writing of their intention to sell or lease. The notice of intention must contain the following information:

1) the name and address of the owner;

2) the name and address of the subdivider;

3) the legal description and area of lands, together with a map showing the layout proposed and the subdivision's relation to existing streets or roads;

4) a true statement of the conditions of the title to the land, including all attached encumbrances;

5) a true statement of the terms and conditions for disposal of the land, including copies of all intended forms of conveyance;

6) a true statement of the provision for legal access, sewage disposal and public utilities in the proposed subdivision, including water, electricity, gas and telephone facilities;

7) copies of any advertising, information, promotion brochures or similar material depicting the property that might cause purchase of the property or an interest therein; and

8) other information that the owner, agent, or the subdivider may desire to submit.

B. The Board may investigate any subdivision being offered for sale or lease.

C. It is unlawful for any person to incorporate in any advertising material, or use for any advertising purposes, the Board's results or findings.

Statute: 76-4-1104, 1109 and 1114, MCA

3. **Fees**

A. A filing fee of $50 is required to file a notice of intention.

B. If the Board of Realty Regulation requires additional information on the proposed sale, the corresponding questionnaire requires a filing fee of $100.

Statute: 76-4-1105 and 1107, MCA

SANITATION IN SUBDIVISIONS

1. **Types of Activities Regulated**

Condominiums, mobile home parks, recreational vehicle parks and all divisions of land which create a parcel of less than 20 acres are subject to sanitary review. A subdivision plat cannot be filed with the county clerk, nor can structures be built or occupied until sanitary restrictions relating to water supply, sewage and solid waste disposal are lifted by the Montana Department of Environmental Quality (DEQ). Review of minor subdivisions of five or fewer parcels can be delegated to local officials. Subdivisions within master planning areas and for which municipal water and waste disposal services will be provided are not subject to sanitary restrictions.

Statute: Sanitation in Subdivisions Act, 76-4-101 *et seq.*, MCA

Rule: ARM 17.36.101 *et seq.*: local regulations

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

LOCAL GOVERNMENT

2. Application Requirements

An applicant who wishes to subdivide land must either complete the joint subdivision application form (generally for major subdivisions) for review by the DEQ and local health officials or submit an ES91S application form for minor subdivisions which may be exempt from local planning review. A preliminary plat or final plat, maps showing proposed public water and sewage systems, an environmental assessment, and a subdivision approval statement from the local health officer are also required.

Statute: 76-3-504, 603, 76-4-104 and 125, MCA

Rule: ARM 17.36.102-104

3. Permitting Procedures

A. On receipt of a subdivision application, the department has 60 days for final action. If an Environmental Impact Statement is required, final action must be taken within 120 days. (See MONTANA ENVIRONMENTAL POLICY ACT, p. 105.)

B. The DEQ may enter into agreements with local governments regarding review of water supply, sewage and solid waste disposal facilities for subdivisions of five or fewer parcels. Local government officials have 50 days to recommend action on the application to the DEQ. The DEQ then has 10 days to take final action.

Rule: ARM 17.36.105 and 108

4. Criteria

The DEQ's rules set standards and procedures relating to size of lots, topography, geology, hydrology, type of facilities proposed and other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation and wildlife. There must be an adequate water supply, drainage, sewage and solid waste disposal systems. The DEQ will issue a certificate of approval when it is satisfied that water pollution will not occur, the water supply is of adequate quantity and acceptable quality and solid waste disposal is in accordance with state laws and regulations.

Rule: ARM 17.36.302 *et seq.*

5. Fees

A schedule of fees, gauged to the complexity of the project, is set out in the rules. Contact the DEQ for the required fee.

Statute: 76-4-105, MCA

Rule: ARM 17.36.801 *et seq.*

6. **Additional Information**

If there is a denial of approval of subdivision plans and specifications which relate to environmental health facilities, the aggrieved developer may request a hearing before the Board of the reviewing authority.

Statute: 76-4-126, MCA

SUBDIVISION AND PLATTING ACT

1. **Types of Activities Regulated**

A. All divisions of land that create a parcel less than 160 acres in size must be surveyed and platted in accordance with the Montana Subdivision and Platting Act and rules adopted pursuant to the act.

Condominium developments or divisions that create parcels for rent or lease, including spaces for mobile homes and recreational vehicles are also subject to regulation as subdivisions, but are exempt from surveying and filing requirements.

B. Exemptions: Subdivision review requirements and surveying and filing requirements do not apply to divisions resulting from court orders; construction mortgages or trust indentures; severance of oil, gas or water interests from surface ownership; creation of cemetery lots; reservation of a life estate; or lease or rental for farming and agricultural purposes. With certain exceptions, the following parcels must be surveyed and filed as a certificate of survey, but are not subject to subdivision review: divisions resulting from relocation of common boundaries; a one time gift or sale to an immediate family member (one per family member per county); and transfers which include a covenant running with the land that provides exclusively for agricultural use of the land.

No transfer of title may be filed until a required certificate of survey or subdivision plat has been filed with the county clerk and recorder and duly referenced on the document of transfer.

C. Evasion Criteria: The legal interpretation of the exemptions, mentioned above, is complex. Many binding legal opinions have been rendered regarding the proper use of the exemptions. Also, the Attorney General and the courts have approved local government *evasion criteria*. Evasion criteria may be adopted by a local government as a method to ensure that each proposed exemption does not represent an intent to evade the Subdivision Act. The law on evasion criteria is not always explicit and continues to evolve. Questions concerning exemptions and evasion criteria should be directed to the local government jurisdiction.

Statute: 76-3-101 *et seq.*, MCA

Rule: ARM 8.94.3001 *et seq.*

Contact: LOCAL GOVERNMENT
Clerk and Recorder
Planning Department
Health Department
Local Planning Board

DEPARTMENT OF COMMERCE
Local Government Assistance Division
Community Technical Assistance Program

2. Review Procedures

1) General Information: The procedure varies slightly, depending on the size of the proposal and whether or not the local government has a planning board. For those with boards, the review may be two-tiered: the planning board conducts the initial review and acts in an advisory capacity, and the final decision is made by the governing body. For those counties without boards, the governing body is the single reviewing entity. In most jurisdictions, a subdivision administrator (planner or sanitarian) will be the developer's initial contact person and liaison.

2) An environmental assessment prepared by the developer must accompany the preliminary plat for major subdivisions. The assessment must contain a description of hydrology, topography, vegetation, wildlife and soils within the proposed subdivision and a community impact report describing the demands the development will make on local services (fire, police, roads, etc.). The assessment does not apply to the first minor subdivision from a tract of record (five or fewer parcels in which no land is dedicated to the public for parks or playgrounds) and may be waived under certain other circumstances.

3) The government, after notice and a public hearing, makes its final decision within 60 days of receipt of the preliminary plat (35 days for minor subdivisions) unless an extension is agreed to by the developer.

4) In general, the developer of a major subdivision that creates parcels smaller than five acres must donate a portion of the subdivided land for public parks. A cash contribution may be accepted in lieu of parkland. This requirement does not apply to minor subdivisions of five or fewer lots.

5) The preliminary plat may be approved for one to three years. The government must require a bond to guarantee completion of improvements which are not proposed to be installed prior to final plat approval.

6) The final plat must be approved by the governing body if it conforms with the conditions imposed on the preliminary plat. A final plat, containing lots of less than 20 acres, may not be filed with the county clerk until the Montana Department of Environmental Quality has lifted all sanitary restrictions. (See SANITATION IN SUBDIVISIONS, p. 137.)

Statute: 76-3-603, 604, 606, 610 and 611, MCA

3. Criteria

In reviewing a proposed subdivision, the governing body must consider 1) the subdivision's effect on agriculture, agricultural water user's facilities, local services, the natural environment, wildlife and wildlife habitat and the public health and safety; 2) the subdivision's compliance with surveying requirements and local subdivision regulations; and 3) the existence of legal and physical access to every lot in the subdivision and easements for any planned utilities.

Statute: 76-3-608, MCA

4. Additional Information

Expedited review is available in certain situations. Summary review (minor subdivision review) may be used if the subdivision contains five or fewer lots, there is proper access to all lots and no park has been dedicated. If the subdivision complies with a master plan, a capital improvements plan, and zoning requirements--the subdivision is deemed to be in the public interest and is exempt from the environmental assessment requirement.

UTILITIES

HIGHWAY UTILITY EASEMENTS

1. Types of Activities Regulated

Utility facilities used to transport or distribute hydrocarbons, electric power, energy, communication signals, water and sewage are authorized to occupy highway right-of-ways if they conform to certain standards approved by the Montana Department of Transportation (MDT), (see also HIGHWAY ENCROACHMENTS - EASEMENTS, p. 60). All other facilities are considered privately owned and must receive a permit from the MDT before being constructed in a highway right-of-way. City councils and boards of county commissioners grant similar approval along city streets and county roads, respectively.

Statute: 7-13-2101 and 4101, MCA

Rule: ARM 18.7.201 *et seq.*, 18.7.221-241

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF TRANSPORTATION
Area Maintenance Bureau

2. Permitting Procedures

1) The utility must prepare and submit a notice of its proposed occupancy to the appropriate division office of the MDT. The notice must be submitted in triplicate, accompanied by utility plans showing the locations of the proposed facilities in relation to the highway.

2) The division supervisor or chief will review the occupancy proposed by the utility. If the proposal conforms with certain standards, specified by rule, the supervisor must sign it, and if not, the supervisor must specify in writing the reasons the proposal does not comply. Standards include preserving the natural environment to the greatest extent possible, maintaining the facility and avoiding hazards or conflicts between the highway and the facility.

3) The utility may resubmit its proposal after making the necessary changes to comply with the standards.

Rule: ARM 18.7.232

IMPROVEMENT AND UTILITY DISTRICTS

1. Types of Activities Regulated

A number of means of funding are available to cities and counties for the construction of capital improvements such as streets, malls, lighting, parking, water and sewer systems, etc. Provisions vary, but typically, an improvement district may be established by the local government. In some cases, a petition by residents of the district is required. A board of directors may be elected or appointed, or the local government itself may be the authority. The district may sell bonds to finance the improvements, and an assessment is levied on benefitted property to service the bond debt and to operate and maintain the improvements. In some cases, user fees may be assessed. Potential developers should contact local authorities to determine applicable requirements.

Statute:

County Water/Sewer Districts:
7-13-2201 *et seq.*, MCA
Industrial Revenue Bonds:
90-5-101 *et seq.*, MCA
Lighting Districts:
7-12-2201 *et seq.*, 7-12-4301 *et seq.*, MCA
Metropolitan Sanitary/Storm Sewer Districts:
7-13-101 *et seq.*, MCA
Municipal Revenue Bonds:
7-7-4401 *et seq.*, MCA
Municipal Sewage/Water Systems:
7-13-4301 *et seq.*, MCA
Public Sewer Systems:
7-13-4201 *et seq.*, MCA
Overhead Facilities Converted to Underground Location:
69-4-301 *et seq.*, MCA
Rural Improvement Districts:
7-12-2101 *et seq.*, MCA
Special Improvement Districts:
7-12-4101 *et seq.*, MCA
Street Parking Districts:
7-12-4501 *et seq.*, MCA

MAJOR FACILITY SITING

1. Types of Activities Regulated

Certification by the Montana Department of Environmental Quality is required for construction of major utilities (power generation plants, transmission lines, pipelines, etc.). For details and agency contacts, see p. 44.

Statute: 75-20-101 *et seq.*, MCA

Rule: ARM 17.20.201 *et seq.*

UTILITY AND MOTOR CARRIER REGULATION

The Public Service Commission (PSC) regulates the rates and services of privately owned public utilities and has the authority to inquire into their management and business. Public utilities are defined as entities owning, operating or controlling a plant or equipment for delivering or furnishing heat, light, power, water, sewer or telecommunications services to others. Electricity and gas suppliers are subject to different regulations, see below.

The Public Service Commission (PSC) regulates certain types of intrastate motor carriage transportation--issuing Certificates of Public Convenience and Necessity to carriers of passengers, household goods and garbage. Single-state motor carrier licenses are issued through the Montana Department of Transportation, Motor Carrier Services Division. To receive a license, carriers traveling interstate must show proof of insurance with the Interstate Commerce Commission.

Utilities owned or controlled by a municipality, town or village or by a county or city-county water or sewer district or water or sewer association are excluded from PSC regulation. The rates and services for these systems are determined by the local government or district.

Statute: 61-3-708 through 710, MCA: single-state registration
69-3-101 *et seq.*, 69-7-101 *et seq.* and 69-12-101, *et seq.*, MCA

Contact: PUBLIC SERVICE COMMISSION

DEPARTMENT OF TRANSPORTATION
Motor Carrier Services Division

MUNICIPAL GOVERNMENT
City or City-County water or sewer district

ELECTRICITY AND GAS SUPPLIERS

The 1997 Legislature authorized the Public Service Commission (PSC) to license electricity and gas suppliers. The PSC must promulgate and enforce rules that identify suppliers and ensure that the supply is provided as offered and is adequate (quality, safety and reliability). The Commission may revoke or suspend a license on a complaint or on its own investigation, after a hearing. For electricity suppliers, the PSC may go to court for fines for violations, which include fraud and deceptive practices, switching without the customer's permission or a licensee's failure to provide an adequate supply.

Statute: 69-8-403(4) and (7), 404 and 408, MCA (electricity suppliers)
69-3-1405, MCA (gas suppliers)

Contact: PUBLIC SERVICE COMMISSION

UTILITY LINES

1. Types of Activities Regulated

A. Construction of Electric/Telecommunication Lines; Underground Facilities

The city or town council may regulate the erection and stringing of wires, rods, or cables in the streets or alleys or within the limits of the city or town, but not within highway rights-of-way. Corporations, persons or public bodies owning or operating electric power or telecommunication service and supply facilities are authorized to install and construct power or telecommunications lines or wires along and on any public roads, streets and highways in the state, and to erect posts, piers and abutments necessary to support the wires, provided that they do not endanger the public in its use of roads, streets or highways. An entity exercising the right to use these public rights of way to construct electric distribution lines and facilities in a new service area must install underground lines, where technically and economically feasible.

Landowners, cities, towns, counties, rural electric cooperatives or public utilities desiring to convert existing overhead electric and communication facilities to underground locations may institute special improvement district proceedings. The governing body on its own initiative or on a petition signed by 60 percent of the property owners owning 60 percent of the land of a proposed district can pass a resolution, make a study, and make the study available for inspection in the governing office.

Statute: 7-13-4106, 69-4-101 and 102 and 69-4-301, *et seq.*, MCA

Contact: CITY OR TOWN COUNCIL
BOARD OF COUNTY COMMISSIONERS
Operators of lines

The Public Service Commission (PSC) enforces the National Electric Safety Code, which governs all construction (overhead and underground electrical supply and communication lines) involving wires for power, heat, light, telephone, telegraph or signal transmission or reception. There are exceptions for railroad electrification and private construction of wires less than 450 volts. Cities and towns in the state may not enact any ordinance which conflicts with any provisions of the Code, and any such conflicting ordinance in existence is void.

Statute: 69-4-102 and 69-4-201, *et seq.*, MCA

Contact: PUBLIC SERVICE COMMISSION

B. Moving/Raising or Cutting Overhead Utility Lines or Poles

Persons moving buildings, equipment or other structures which will require the moving of utility overhead lines, wires or poles must give 10 days written notice of the proposed time and place of moving the structure to the owner of the wires or poles. The owner must give the mover a written estimate of the cost of the action at least three days before the move. The owner of the poles or wires must then furnish competent workers to remove the poles and/or raise or cut the wires as needed.

The PSC determines the reasonable expenses for raising or cutting the wires or moving the poles, which are shared equally by the structure mover and the utility owner, except in certain situations (see 1 and 2 below). If the owner refuses to raise or cut the wires or move the poles, after notice, then the structure mover may ensure that competent workers raise or cut the wires or move the poles, and these costs must be paid by the owner of the poles or wires. All the necessary and reasonable expenses incurred to move/raise/cut overhead utility lines and poles, as determined by the PSC, must be paid by 1) the owners of prefabricated structures built to be moved from the place of fabrication; and 2) structure movers moving the sixth and each subsequent structure exceeding 25 feet in height (while being moved) that is to be moved from a single site. Structures moved in a group requiring only a single line cut or movement count as a single structure move.

The owner of agricultural lands may petition the district court for permission to relocate overhead lines for the purposes of installing an agricultural improvement. After a hearing, the court may grant or deny the petition. The owner of the land must pay the costs of relocating the overhead utility line.

Statute: 69-4-401, *et seq.* and 69-4-601, *et seq.*, MCA

Rule: ARM 38.5.2401, *et seq.*

Contact: PUBLIC SERVICE COMMISSION

PIPELINES: UNDERGROUND EXCAVATION

1. **Types of Activities Regulated**

A. Common Carrier Pipelines

An entity owning, operating or managing a pipeline within the state to transport crude petroleum, coal (or products) for others, or intending to do so, may obtain the right

to construct and operate pipelines in public streams or highways by filing a written agreement with the PSC to become a common carrier pipeline and assuming the attendant duties and obligations. These pipelines must follow statutory condemnation procedures and compensate counties for any damage to the public roads from the construction. The pipelines may not use public streets or alleys without obtaining permission from the city.

Statute: 69-13-101, *et seq.*, MCA

Contact: PUBLIC SERVICE COMMISSION;
CITY OR TOWN COUNCIL;
BOARD OF COUNTY COMMISSIONERS

B. Natural Gas Pipelines

The PSC enforces the safety regulations adopted under the Natural Gas Safety Act of 1968 (NGPSA), as amended. This authority extends over intrastate pipeline operators and systems. The PSC also has the power to investigate all methods and practices of pipeline owners and operators, to make report filing requirements, to issue informal reports of probable violations and orders to show cause, to establish formal enforcement procedures, to hold hearings and to enter onto the property and inspect books and records relevant to the PSC's enforcement responsibilities.

Statute: 69-3-207, MCA

Contact: PUBLIC SERVICE COMMISSION

C. Underground Excavations

Prior to moving earth, rock or other ground material, excluding surface road grading, an excavator must first obtain information from a one-call notification center on the possible location of any underground facility. Every public utility, municipal corporation or anyone with the right to bury underground facilities must be a member of a one-call notification center where the facilities are located. Before beginning, the excavator must then notify the owners of underground facilities through the center. The owners must mark the locations of the facilities within 2 business days or respond immediately if informed it is an emergency. If the excavator has not excavated within 30 days, the excavator must request relocations and marks and is responsible for the associated costs. Architects and engineers designing projects requiring excavation in a public right of way or easement must also obtain information on underground facilities from the owners and then make the information part of the plan.

The 1997 Legislature repealed the section of law (69-4-511, MCA) that held property owners responsible for the costs of constructing privately supplied water service pipelines from the main to the premises and for maintaining service pipelines from the property line to the premises and that held private water service providers responsible for the cost of maintaining water service pipelines from the main to the owner's property line.

Statute: 69-3-207; 69-4-501, *et seq.*

Contact: CITY OR TOWN COUNCIL; BOARD OF COUNTY COMMISSIONERS; PUBLIC SERVICE COMMISSION

WATER

If the project requires water use, a water supply, or discharge of wastes into state waters, the following regulations may apply. (See also, IMPROVEMENT AND UTILITY DISTRICTS, p. 143.)

DAMS AND RESERVOIRS

1. Types of Activities Regulated

The Federal Energy Regulatory Commission licenses and inspects hydropower dams (see HYDROELECTRIC POWER DEVELOPMENT p. 37). The U.S. Department of the Army, Corps of Engineers should be contacted for proposed dams on navigable or nonnavigable waters (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11). If the proposed dam facility will be on a stream located on state-owned lands, a lease or license must be obtained from the Board of Land Commissioners (see STATE LANDS, p. 9). The Montana Department of Natural Resources and Conservation (DNRC) should be contacted to acquire any necessary water permit or change authorization (see WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 156).

A dam owner must obtain a dam safety construction permit from the DNRC prior to constructing, enlarging, removing, extensively repairing or altering a high-hazard dam.[1] In addition, a dam safety operating permit must be obtained before operating a high-hazard dam. At its discretion, or upon complaint, the DNRC may inspect any dam on state waters.

Statute: Federal Power Act, 16 USC 791a *et seq.*
River and Harbors Act, 33 USC 401 *et seq.*
85-2-301, *et seq.*; 85-2-401 *et seq.*
Montana Dam Safety Act, 85-15-105 *et seq.*, MCA
77-4-201 through 210, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Operations Bureau

U.S. DEPARTMENT OF THE ARMY
Corps of Engineers
District Engineer

FEDERAL ENERGY REGULATORY COMMISSION

[1] A high-hazard dam is a dam or reservoir with an impounding capacity of 50 acre-feet or more at the maximum normal operating pool, the failure of which would be likely to cause the loss of human life.

2. **Application Requirements** (for dams other than hydropower dams or dams on federal land)

A. For hazard classification, the dam owner must apply for a determination from the DNRC.

B. For a construction permit, the dam owner must submit an application form, construction plans, specifications and an engineering design report to the DNRC.

C. For an operation permit, the dam owner must submit an application form and an operations plan. An inspection report is also required except for in the case of a new dam for which a construction permit has been issued.

Statute: 85-15-209 through 212, MCA

Rule: ARM 36.14.201-204, 36.14.301 *et seq.*, 36.14.401-403

3. **Permitting Procedures**

A. The DNRC will notify the applicant for a dam hazard classification of its receipt of the application within 10 days and will advise the applicant if it requires additional information. The department will then schedule an inspection with the dam owner to gather information to make a hazard determination. The DNRC has 60 days after the receipt of a completed application to submit its determination.

B. Within 30 days after receipt of an application for a construction permit, the DNRC will notify the applicant of any errors or omissions and request any additional information necessary to evaluate the application. The DNRC has 60 days after receiving the application to issue the permit, deny the permit, or issue the permit with conditions or modifications.

C. Within 30 days after receipt of an application for an operation permit, the DNRC will notify the applicant of any errors or omissions and request any additional information necessary to evaluate the application. After receipt of all required information, the department has 90 days to issue or deny the permit.

Rule: ARM 36.14.205-208, ARM 36.14.301 *et seq.*, 36.14.401 *et seq.*

4. **Fees**

There is a $125 application fee for hazard classification. There are no application fees for either the construction or operation permit.

Rule: ARM 36.14.204(3)

PUBLIC WATER SUPPLY

1. Types of Activities Regulated

A water system that has at least 15 service connections or that regularly serves at least 25 persons daily for a period of at least 60 days in a calendar year is regulated as a public water supply by the Montana Department of Environmental Quality (DEQ). Plans and specifications for public water supply wells must be approved, as well as plans for construction, alteration or extensions of any water system or treatment facilities. Operators in charge of community public water supplies and community public wastewater treatment systems must be certified by the DEQ.

Private water supply systems for food and lodging establishments are regulated by the Montana Department of Public Health and Human Services.

Statute: 75-6-101 *et seq.*, MCA (public water supply systems)
50-50-101, *et seq.* MCA (private systems for food and lodging establishments)

Rule: ARM 17.38.101-102, 105

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Health Policy and Services Division
Food and Consumer Safety Section

2. Application Requirements

1) Prior to operating, constructing, altering or extending a public water supply, the applicant must submit an engineering report along with the necessary plans and specifications to the DEQ for review and written approval.

2) The engineering report, plans and specifications for a community public water supply must be prepared and designed by a professional engineer according to specific engineering criteria. An engineer may be required to prepare plans and specifications for a noncommunity public water supply.

3) The applicant must identify the legal entity responsible for the ownership, operation and maintenance of the public water supply.

4) If construction, alteration or extension of the community public water supply has not begun within two years after approval, the applicant must resubmit all of the information required in 1-3 above.

5) The proposed public water supply must comply with the Montana Water Quality Act (75-5-101 *et seq.*, MCA). (See WATER QUALITY PERMITTING, p. 160.)

6) Within 90 days after the construction, alteration or extension of the public water supply, the project engineer must certify to the DEQ that the required work was completed according to the approved plans and specifications.

Rule: ARM 17.38.101

3. Fees

An annual fee is required and must be postmarked or delivered to the department by March 1st.

The annual fee for a community public water supply system is $2 per service connection, with a $100 fee minimum. The annual fee for a nontransient, noncommunity public water supply system is $100. The annual fee for any other noncommunity public water supply system is $50.

Statute: 75-6-108, MCA

Rule: ARM 17.38.248

4. Additional Information

A. Montana Wellhead Protection Program

The DEQ has the authority to administer a wellhead protection program that allows for the certification of local wellhead protection agencies and the review of wellhead protection area ordinances. A supplier of a public water supply system may voluntarily submit a petition to the department to establish a wellhead protection program for the system. The governing body of a county in which a wellhead protection area or areas exist may adopt an ordinance to regulate, control and prohibit conditions that threaten the quality of water used within the wellhead protection area or areas.

Statute: 75-6-120, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Planning, Prevention and Assistance Division
Pollution Prevention Bureau

B. Prevention of Water Supply Contamination from Cross-Connections

The Board of Environmental Review is authorized to adopt rules and standards for the voluntary submission of petitions by public water suppliers for cross-connection control programs (a cross-connection is a connection between a public water supply

system and another water supply system or wastewater or sewer line).

Statute: 75-6-103(2)(j)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

SEPTIC TANKS, CESSPOOLS AND PRIVIES

1. Types of Activities Regulated

Persons engaged in the business of cleaning cesspools, septic tanks or privies and disposing of the waste material from these sources must be licensed by the Montana Department of Environmental Quality (DEQ). An exclusion is made for the owner or lessee of a property disposing of septage on their own land as long as it does not create a nuisance or a public health hazard.

Statute: 37-41-101 and 105, MCA

Rule: ARM 17.50.801-802 and 805-810

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

2. Application Requirements

Applications for licenses must be made to the DEQ on forms provided by the department. The application must contain the applicant's name and business address; a list of counties in which business will be conducted; information on disposal sites and an estimate of the volume of septage to be disposed of at each disposal site; and certification from the local health officer for each county served that all disposal sites meet applicable state and local requirements. Licenses expire on December 31st of each calendar year and are nontransferable.

Statute: 37-41-201 and 202, MCA

Rule: ARM 17.50.805 and 806

3. Fees

The annual application fee for a cesspool, septic tank and privy cleaning license is $25. A fee of $25 may also be assessed by the department for failure to renew a license before its expiration date.

Statute: 37-41-202(2), MCA

Rule: ARM 17.50.805

SEWER SYSTEMS

1. Types of Activities Regulated

Approval from the Montana Department of Environmental Quality (DEQ) is required to construct, alter or extend a public sewer system serving 15 or more families or 25 or more persons for a period of at least 60 days in a calendar year. Operators in charge of public sewer systems must be licensed by the DEQ.

Statute: 75-6-101 *et seq.*, MCA

Rule: ARM 17.38.101 and 102

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Community Services Bureau

BOARD OF WATER AND WASTEWATER OPERATORS

2. Application Requirements

1) Prior to operating, constructing, altering or extending a public sewer system, the applicant must submit an engineering report along with the necessary plans and specifications to the DEQ for review and written approval.

2) The engineering report, plans and specifications for a public sewer system must be prepared and designed by a professional engineer licensed in the state of Montana according to specific engineering criteria developed by the department.

3) The applicant must identify the legal entity responsible for the ownership, operation and maintenance of the public sewer system.

4) If construction, alteration or extension of the public sewer system has not begun within two years after approval, the applicant must resubmit all of the information required in 1-3 above.

5) The proposed public sewer system must comply with the Montana Water Quality Act (75-5-101 *et seq.*).

6) Within 90 days after the construction, alteration or extension of the public sewer system, the project engineer must certify to the DEQ that the required work was completed according to the approved plans and specifications. The project engineer must also provide *as built* drawings at this time.

Rule: ARM 17.38.101

WATER APPROPRIATIONS - GROUND WATER

1. Types of Activities Regulated

A ground water appropriation that will exceed 35 gallons of water per minute or 10 acre-feet of water per year for a beneficial use, or that is inside an established controlled ground water area or applicable compact area,[1] must be permitted by the Montana Department of Natural Resources and Conservation (DNRC) before construction of the project can begin. A combined appropriation of 2 or more wells or developed springs from the same source that is more than 35 gallons per minute or 10 acre-feet per year also requires a permit. See WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 156 for more information on beneficial uses.

The DNRC may not grant a permit to an applicant to appropriate ground water in excess of 3,000 acre-feet per year without legislative affirmation of the department's decision, except for municipal use, public water supplies or for irrigation of cropland owned and operated by the applicant.

Statute: 85-2-302, 306, 311, 317 and 508, MCA.

Rule: ARM 36.12.102 and 103

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau

2. Application Requirements

A. An applicant seeking a ground water appropriation exceeding 35 gallons per minute or 10 acre-feet per year, or one that is within an established controlled ground water area or applicable compact area, must obtain a permit before beginning construction of the project. (See WATER APPROPRIATIONS - SURFACE DIVERSIONS on the following page for permit application procedures.)

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[1] A compact area is one in which the Montana Reserved Water Rights Compact Commission has completed a negotiated settlement with a tribal group or federal agency.

B. A person appropriating 35 gallons of water per minute or less, with an annual volume of 10 acre-feet or less, is not required to obtain a permit before beginning a project. However, within 60 days after the well is completed or the ground water spring is developed and the water put to beneficial use, the individual must file a Notice of Completion of Ground Water Development with the DNRC so a Certificate of Water Right can be issued. (See also WATER WELLS, p. 166.)

Statute: 85-2-302, 306, 317, 508 and 516, MCA

Rule: ARM 36.12.102 and 103

3. **Additional Information**

A. Controlled Ground Water Area

Designation or modification of an area of controlled ground water use may be proposed to the DNRC on its own motion, by petition of a state or local public health agency for identified public health risks, or by petition signed by at least 20 or 1/4 of ground water users (whichever is the lesser number) in a ground water area where there are concerns over ground water levels, disputes over appropriation rights or other challenges listed in 85-2-506(2)(a-g), MCA.

WATER APPROPRIATIONS - SURFACE DIVERSIONS

1. Types of Activities Regulated

State waters may be appropriated for *beneficial uses*. These uses include, but are not limited to, agriculture, domestic, fish and wildlife, mining, industrial, municipal, power generation and recreation. A Permit to Appropriate Water for a beneficial use is required from the Montana Department of Natural Resources and Conservation (DNRC) before beginning a project that proposes the use of unappropriated water. A person who intends to appropriate water by means of a reservoir must also have a permit. Application forms are available from the DNRC Water Rights Bureau Office in Helena, the eight local Water Resources Regional Offices (see Contacts on the next page for a listing of local offices) and from the offices of county clerk and recorders.

A Permit to Appropriate Water is not required for construction of a pit or reservoir for use by livestock if: 1) the pit or reservoir has a maximum capacity of less than 15 acre-feet of water, 2) the impoundment is constructed on and will be accessible to a parcel of land that is owned or controlled by the applicant and that is at least 40 acres in size, and 3) the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream. However, an application for a Provisional Permit for a Completed Stockwater Pit or Reservoir must be submitted to the DNRC within 60 days after construction of the pit or reservoir. If the pit or reservoir adversely affects prior water rights, the DNRC may require modifications or revoke the permit.

An applicant may apply for a Temporary Permit to Appropriate Water if the use is for a limited period of time, i.e., for road construction or oil and gas exploration. The applicant must meet the criteria listed in 3.(2) on the following page. Permits expire on the date noted in the application.

A change in place of use, point of diversion, place of storage or purpose of use of an appropriated water right also requires approval by the DNRC. A change of ownership of a water right must be disclosed with a realty transfer certificate and recorded with the DNRC by filing a Water Right Transfer Certificate within 60 days of filing the deed.

The state, the federal government or their subdivisions may apply for reservations of water for existing or future beneficial uses, or to maintain a minimum flow, level or quality of water. The application must be filed with the DNRC which has the authority to grant, deny or modify the reservation.

Statute: 85-2-301, 302, 306, 313-317, 402 and 424, MCA

Rule: ARM 36.12.101-106 and 36.16.103-106

Contact: COUNTY CLERK AND RECORDER for forms;

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau Office in Helena; or local Water Resources Regional Offices located in Helena, Missoula, Kalispell, Havre, Glasgow, Billings, Lewistown and Bozeman (see APPENDIX 2) for forms and assistance

2. Application Requirements

An application for a Permit for Beneficial Water Use or an Authorization to Change a Water Right must be made on forms prescribed by the DNRC. An incorrect or incomplete application does not lose its filing priority if it is corrected and refiled within 30 days or as the DNRC may allow, up to three months. An application not corrected within 3 months is by law terminated.

To apply for a water reservation, the state or a political subdivision or the federal government must submit an application to the DNRC. Individuals may not make this application. Applications are processed and investigated by the department. The DNRC must make findings concerning the purpose and need for the water reservation, the amount of water necessary and whether the proposed use is in the public interest.

Statute: 85-2-301 *et seq.* And 85-2-402, MCA

Rule: ARM 36.12.102, 103 and 36.16.101-118

3. Permitting Procedures

1) The application process for a permit or change approval may take six months or longer. The DNRC must prepare a notice on the application and publish it once in an area newspaper unless it finds from available information that the proposed appropriation will not adversely affect the rights of others.

2) Individuals may file written objections to the permit or change application within a time period established by the DNRC of not less than 15 or more than 60 days after the date of publication. An objection must be correct and complete and include the name and address of the objector and facts showing that one or more of the criteria in 85-2-311, MCA are not met. These criteria are:

- There is water physically available at the proposed point of diversion in the amount that the applicant seeks to appropriate;
- Water can reasonably be considered legally available during the period in which the applicant seeks to appropriate, in the amount requested;
- The water rights of a prior appropriator under an existing water right, a certificate, a permit, or a state water reservation will not be adversely affected;
- The proposed means of diversion, construction and operation of the appropriation works are adequate;
- The proposed use of water is a beneficial use; and
- The applicant has possessory interest or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use.

3) If the DNRC determines that objections to an application are valid, it will hold a public hearing unless an agreement is reached by the parties.

4) If a hearing is held on objections to an application, a proposed order will be prepared and sent to all parties of record in the case. A party who disagrees with the order may file an exception and request an oral argument hearing before a final order is issued. The final order may be appealed by the applicant or objector to the district court within 30 days after receiving notice of the decision.

5) The DNRC will issue a decision on the permit within 120 days after publication of the notice if no objections have been received, or within 180 days if a hearing is held or objections have been received. The department may extend these deadlines up to 60 days on agreement of the applicant, if an Environmental Impact Statement is required or in other extraordinary cases. If no objection to the application is filed but the DNRC determines that the application should be approved in a modified form or denied, it will serve a statement of opinion to the applicant, along with notice that the applicant may file a request for a hearing within 30 days.

6) The DNRC may issue a permit for less than the amount of water requested, but in no case may it issue a permit for more water than is requested or that can be beneficially used. The DNRC must state the time limits for commencement of the appropriation

work, completion of construction and actual application of the water to the proposed beneficial use.

7) **Permits are provisional until all claims of existing water rights in a basin or subbasin have been adjudicated in the state Water Court.**[1]

Statute: 85-2-307 through 315 and 402, MCA
See also, the Montana Administrative Procedure Act, 2-4-101 *et seq.*, MCA

Rule: ARM 36.12.201-234 and 36.16.107

4. **Fees**

Fees vary according to the type of application and are due at the time the application is submitted. For a schedule of fees see ARM 36.12.103 or contact the DNRC.

Statute: 85-2-113, MCA

Rule: ARM 36.12.103

5. **Criteria**

The DNRC must base its decision for issuance of a permit on the criteria found in 85-2-311, MCA. Approval for an authorization to change a water right is based on the criteria in 85-2-402, MCA. All permits and change authorizations are issued subject to prior existing water rights and the final determination of those rights. Other conditions may be imposed to protect the rights of other water right appropriators on a case-by-case basis.

Statute: 85-2-311, 312 and 402, MCA

Rule: ARM 36.12.104

6. **Additional Information**

A. Highly Appropriated Basins

The Legislature may by law preclude permit applications or the DNRC may by rule reject permit applications or modify permits already issued in a highly appropriated

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[1] Permits for new water use have been required since July 1, 1973. Water rights claimed before that date are currently being quantified and recorded through a statewide water adjudication process. Contact the Montana Water Court or the DNRC for adjudication procedures.

basin or subbasin. A rule may only be adopted by the DNRC on petition by at least 25 percent or 10, whichever is less, of the users of water from the source of supply. The petition must allege facts showing that throughout or at certain times of the year or for certain beneficial uses no unappropriated waters exist in the basin or subbasin, that further uses will interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved, or that the rights of prior appropriators will be adversely affected. The Department of Environmental Quality may also file a petition for closure alleging facts showing that the water quality of an appropriator would be adversely affected by the issuance of permits, further use would be inconsistent with the beneficial uses assigned to that water, or issuance of a permit would inhibit the ability of a discharge permit holder to meet the effluent limitations of the permit.

Statute: 85-2-319, MCA

B. Temporary Change to Maintain or Enhance Instream Flows

The owner of a water right may apply to the DNRC for a temporary authorization to change the purpose of a consumptive use water right or lease a consumptive use water right to another person for instream flow to benefit the state's fisheries. The applicant for a change of use under this provision must prove that the change will not adversely affect other water rights holders and that the amount of water for the proposed use is needed to maintain or enhance stream flows.

The applicant for the change must publish notice in a local paper 30 days before submitting the application. The change authorization is valid for a period of 10 years or less and may be renewed. A temporary change authorized under 85-2-408, MCA may not be renewed or extended after June 30, 2005.

Statute: 85-2-408, MCA

WATER QUALITY PERMITTING

The Department of Environmental Quality, under the authority of the Montana Water Quality Act (75-5-101 *et seq.*, MCA), regulates the discharge of pollutants into state waters through the adoption of water quality standards and the permit application process. Water quality standards specify what changes in water quality are allowed during the use of state waters and establish a basis for wastewater discharge permitting.

DISCHARGE PERMITS

1. Types of Activities Regulated

A Montana Pollution Discharge Elimination System (MPDES) permit or a Montana Ground Water Pollution Control System (MGWPCS) permit is required from the Montana Department of

Environmental Quality (DEQ) to construct, modify or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial or other wastes into state surface or ground water. A permit is not required for the discharge of certain wastes under specific circumstances (see ARM 17.30.1310 and 75-5-401(5), MCA).

Statute: Montana Water Quality Act, 75-5-101 *et seq.*, MCA

Rule: ARM 17.30.1301 *et seq.*: MPDES permit
ARM 17.30.1001 *et seq.:* MGWPCS permit

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. **Application Requirements**

MPDES Permits - General: The DEQ may issue a general MPDES permit to cover all facilities that engage in a general type of activity in a discrete geographical region or statewide. These categories include, among others, concentrated animal feeding operations, stormwater point sources, placer mining operations and septic tank pumper disposal sites. Applications must be submitted 30 days before the initiation of a proposed discharge.

MPDES Permits - Individual: Individual MPDES permits are required for facility-specific industrial, commercial or municipal discharges. An application must be filed at least 180 days prior to the operation of a point source. Application information must include plans and specifications, site plans, descriptions of adjacent state waters, soil conditions, ground water characteristics, process and waste flow diagrams and the volume and nature of projected discharges. Stormwater discharges may be incorporated into this application, permitted under a separate individual MPDES permit or permitted under a general MPDES permit.

MGWPCS Permits: An application for a Montana Groundwater Pollution Control System (MGWPCS) permit must be filed at least 180 days prior to the operation of a point source. Application information must include a site plan; the location of treatment works and disposal systems; the location of adjacent surface waters; a list of surface owners and lessees, water supply wells and springs and a description of ground water quality and uses within one mile of the source; and other information that the department considers necessary to properly process the application.

Statute: 75-5-401 *et seq.*, MCA

Rule: ARM 17.30.1301, 1341 and 17.30.1023

3. Permitting Procedures

MPDES General Permits

1) Within 30 days of receiving a completed application, the DEQ will issue an authorization to operate under a general MPDES permit, or notify the applicant that the source does not qualify, citing 1 or more of the reasons listed in ARM 17.30.1341(4)(a-e). The public must be noticed and a 30 day comment period allowed.

2) If an authorization to operate under a general MPDES permit is denied, the DEQ will process the application as an individual MPDES permit, unless the application is withdrawn.

3) All MPDES permits are issued for a fixed term, not to exceed five years.

MPDES Individual and MGWPCS Permits

1) On receipt of the permit application, the DEQ must make a tentative determination with respect to issuance or denial of an MPDES or MGWPCS permit. The DEQ is then required to issue a public notice to inform interested persons of the proposed discharge and of the tentative determination. At least 30 days are provided for written comments from the public regarding the application.

2) The department has 30 days to issue, condition or deny the permit application, or 60 days if it deems a public hearing necessary on its own initiative or at the request of another agency or interested person. During the application review process, the department also determines discharge limitations and the length of mixing zones[1] to ensure water quality standards are met. Hearings must be held in the geographical area of the proposed discharge.

3) If the DEQ denies the discharge permit, the applicant may appeal the decision to the Board of Environmental Review (BER). The hearing must be held within 30 days of the receipt of the written request.

4) All MPDES permits are issued for a fixed term, not to exceed five years. All MGWPCS permits are issued for a fixed term, not to exceed 10 years.

Statute: 75-5-403, MCA

Rule: ARM 17.30.1301 *et seq.*, and 17.30.1024 *et seq.*

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[1] Mixing zones are established areas where water quality standards may be exceeded while a discharge is mixed with receiving waters.

4. Fees

The DEQ assesses fees to cover a portion of the costs of implementing the water quality program. For a schedule of fees see ARM 17.30.201.

Statute: 75-5-516, MCA

Rule: ARM 17.30.201

5. Additional Information

Short-term Exemptions: The DEQ may authorize short-term exemptions from certain water quality standards (3A authorization) for construction, emergency environmental remediation, pesticide application, elimination of undesirable and nonnative aquatic species and treatment of water for the protection of public health. The department must issue the authorization before the applicant may begin the activity.

Leaching pads, tailing ponds or water, waste or product holding facilities must be designed and constructed, operated and maintained to prevent discharge, seepage, drainage, infiltration or flow which may result in the pollution of state waters. Plans and specifications for tailings ponds, leaching pads and holding facilities used in ore processing must be submitted to the DEQ for review and approval at least 180 days prior to the beginning of operations.

Rule: ARM 17.30.637

6. Criteria

All discharges of pollutants into state waters authorized by a discharge permit must be consistent with the conditions of the permit. The discharge of pollutants into state waters in excess of the permit's restrictions constitutes a violation of the permit. State waters must be free of discharges that settle to form sludge deposits; create floating debris; produce odors; create toxic concentrations harmful to human, animal, plant and aquatic life; or create conditions capable of producing undesirable aquatic life. All discharges must meet water quality standards.

Rule: ARM 17.30.637, 1002, 1003, 1030 and 1342

NONDEGRADATION REVIEW

The state's nondegradation policy outlines 3 levels of water protection, stipulating what level of degradation, if any, is allowed in each level. For waters classified as *outstanding resource waters*, (see p. 165) the DEQ may not grant an authorization to degrade. The state may authorize degradation of *high quality waters* up to but not exceeding water quality standards. For *other waters* not classified as outstanding resource waters or high quality waters, there is no nondegradation review requirement, but water quality standards and discharge permit conditions still apply.

1. Types of Activities Regulated

A person proposing an activity that may degrade *high quality waters* must 1) make a self-determination that the activity is nonsignificant using the standards in ARM 17.30.715 and 17.30.716, 2) receive a determination of nonsignificance from the Montana Department of Environmental Quality (DEQ) or, 3) if the activity is not within the definition of nonsignificant, petition the department for an authorization to degrade. For all activities that are licensed, permitted, approved or otherwise authorized by the DEQ, the department will automatically make the determination of significance.

Statute: 75-5-303 and 317, MCA

Rule: ARM 17.30.701-708 and 715-716

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. Application Requirements

The DEQ will require the applicant to submit information necessary for the department to determine: 1) the degradation is necessary because there are no feasible modifications to the proposed project that would result in no degradation, 2) the proposed project will result in important economic or social development and the benefit of the development exceeds the costs to society of degrading high quality waters, 3) existing and anticipated use of state waters will be fully protected and 4) the least degrading water quality protection practices determined by the department to be economically, environmentally and technologically feasible will be fully implemented by the applicant prior to, during and after the proposed activity.

3. Permitting Procedures

1) The department must review an Application for Determination of Significance and make its decision on the application within 60 days. If the department determines that the activity will cause degradation, and the applicant wishes to proceed with the activity as planned, then the applicant must complete an application to degrade state waters.

2) The department will issue a preliminary decision either authorizing or denying the degradation within 180 days of the receipt of a completed application. This time period may be extended by agreement of the applicant or whenever an Environmental Impact Statement is required to comply with the Montana Environmental Policy Act (see MONTANA ENVIRONMENTAL POLICY ACT, p. 105).

3) The DEQ will issue its preliminary decision and provide public notice and a 30-day comment period. The department will hold a hearing if it determines there is a significant degree of public interest.

4) Within 60 days after the close of the public comment period, the DEQ will issue a final decision accompanied by a statement of basis for the decision and, if applicable, a statement of conditions. An interested person[1] wishing to challenge the final decision may request a hearing before the BER within 30 days of the department's decision.

4. Additional Information

Outstanding Resource Waters

State surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995, or other state waters classified as outstanding by the Board of Environmental Review (BER) and approved by the Legislature, may be designated as *outstanding resource waters.*

The DEQ may not grant an authorization to degrade waters in this classification. This prohibition does not apply to activities identified as *nonsignificant* or activities that are exempted from the nondegradation review process.

A person may petition the BER to classify waters as outstanding resource waters. In determining whether a water should be thus classified, the Board will consider 1) whether the waters have been designated as Wild and Scenic, 2) the presence of threatened or endangered species, 3) the presence of an outstanding recreational fishery, 4) whether the waters provide the only source of suitable water for domestic water supply, and 5) other factors that indicate outstanding environmental or economic factors.

The BER may reject or approve the petition. If the Board rejects the petition, it will specify in writing the reasons for the rejection and state the petition's deficiencies. If the Board accepts the petition, it will require the completion of an Environmental Impact Statement (see MONTANA ENVIRONMENTAL POLICY ACT, p. 105) when the classification as an outstanding resource water may cause significant adverse environmental, social or economic impacts. The classification is not effective until approved by the Legislature.

The Board may deny an accepted outstanding resource water petition if the criteria for establishing outstanding resource waters have not been met or if, based on the information available to the Board from the Environmental Impact Statement or other sources, approving the outstanding resource waters classification petition would cause significant adverse environmental, social or economic impacts.

Statute: 75-5-315 through 317, MCA

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[1] Interested person is defined in statute as the applicant, or a person who has a real property, economic or watered right that is or may be directly and adversely affected by the department's decision, (75-5-103(13), MCA).

WATER POLLUTION: FEDERAL - INDIAN RESERVATIONS

1. Types of Activities Regulated

Under the federal Clean Water Act, a person who wishes to discharge waste materials from a point source into waters of the United States must obtain a National Pollutant Discharge Elimination System (NPDES) permit. The U.S. Environmental Protection Agency (EPA) issues NPDES permits on Montana's seven Indian reservations. The Montana Department of Environmental Quality (DEQ) issues all other discharge permits, including those for federal facilities on state lands.

The Clean Water Act, section 518, also allows a tribal government to apply for *treatment-as-state status* and on approval by the EPA to issue NPDES permits for dischargers on a reservation. In 1996, the state challenged an EPA decision to allow the Confederated Salish and Kootenai Tribes to regulate water quality on the Flathead Reservation. In March 1998, the 9th Circuit Court of Appeals upheld the right of the tribe to set water quality standards on the reservation for both tribal and nontribal members. The state of Montana, at the date of this printing, has yet to decide whether to appeal the 9th Circuit's decision.

Statute: 33 USC 1251 *et seq.*, Federal Water Pollution Control Act

Contact: U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

WATER WELLS

1. Types of Activities Regulated

A. Permits for Water Use

A water rights permit is not required for appropriations of water by means of a well or developed spring if the appropriation is 35 gallons or less per minute and has an annual volume of 10 acre-feet or less; and the well is not inside an established controlled ground water area. However, a Notice of Completion of the well must be filed with the Montana Department of Natural Resources and Conservation (DNRC) within 60 days. Defective notices are returned to the well owners and must be resubmitted within a time specified by the DNRC in order to retain priority.

B. Well Drilling Requirements

All wells must be drilled by a water well contractor, water well driller, or monitoring well constructor licensed by the Board of Water Well Contractors (BWWC) or by a person who

has obtained a permit from the Board to drill a well on their own land for agricultural or residential use.

Water well contractors/drillers must prepare a well log report form for each well drilled within 60 days after completion of the well.

Wells drilled by individuals for private use must conform to the minimum construction standards set by the Board.

Statute: 85-2-306, MCA: water rights permitting
37-43-101 *et seq.*, MCA: drilling requirements

Rule: ARM 36.12.101 *et seq.*: water rights permitting
ARM 36.21.634 *et seq.*: drilling requirements

Contact: COUNTY CLERK AND RECORDER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau
Water Operations Bureau

BOARD OF WATER WELL CONTRACTORS

2. Application Requirements

A. A permit is required for a ground water appropriation exceeding 35 gallons per minute or 10 acre-feet per year, or that is within an established controlled ground water area. (See WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 156, for permit application procedures.)

B. A person planning the drilling, making, construction, alteration or rehabilitation of one or more water or monitoring wells for underground water must file a license application with the BWWC. The application must include verification of one or more years in the water well or monitoring field and relevant coursework and education.

Individuals applying for a permit to drill a well on their own property must show interest in the land on which the well will be constructed and the method of construction to be used. Permits are often issued the same day if the application is complete.

3. Permitting Procedures

A. See 1.A and 2.A above.

B. Water well driller and monitoring well constructor license applications are reviewed for completeness by the department. Once the application is reviewed, then the exam may be taken at the BNRC or DNRC offices or at the water resources division regional offices. Licenses are issued when the exam is passed.

Contractor's licenses are not issued until bonds are submitted, and take an average of two weeks to be processed.

4. **Fees**

A. There is a fee of $20 for filing a Notice of Completion.

B. Driller's license application and license renewal fees are:

Category	Application Fee	Renewal Fee	Dates Valid
Water Well Contractor	$275	$140	July 1 - June 30
Water Well Driller	$165	$ 90	July 1 - June 30
Monitoring Well Constructor	$165	$140	July 1 - June 30

C. There is no fee for filing the well log report form. There is no licensing fee for drilling a well on one's own property.

Rule: ARM 36.12.103

WEATHER MODIFICATION

1. Types of Activities Regulated

A license and permit from the Montana Department of Natural Resources and Conservation (DNRC) are required to engage in weather modification and control activities. License and permit forms are available from the department.

Statute: 85-3-101 through 303, MCA

Rule: ARM 36.20.101-307

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Management Bureau

2. Application Requirements

A. License

A license is required for a person wishing to engage in weather modification activities within Montana. Applicants for the licenses must demonstrate competence in the field of meteorology. Application forms are available upon request from the Water Resources Division of the DNRC. A license expires at the end of the calendar year in which it is issued; at the expiration of the period, qualified licensees may apply for, and be issued, a renewal.

B. Permit

A person holding a valid weather modification license must receive a permit before engaging in actual weather modification and control activities. Separate permits are required for each operation. An applicant for a permit to conduct weather modification activities must file a notice of intention with the DNRC. The notice must include the applicant's name, address and information on the operations; the area to be affected; and the materials and methods to be used. The DNRC must publish the notice at least once a week for two consecutive weeks in a newspaper in the affected county. The DNRC must also hold a public meeting on the applications and prepare a report and Environmental Impact Statement (see MONTANA ENVIRONMENTAL POLICY ACT, p. 105.) A public hearing may also be required.

Statute: 85-3-201 through 204 and 206 through 210, MCA.

3. Fees

A. The fee for a license or license renewal to conduct weather modification operations is $100.

B. The fee for a permit to conduct weather modification operations is one percent of the estimated cost of the operation.

C. The applicant must reimburse the DNRC for the cost of holding the public meeting, preparing the report and preparing the Environmental Impact Statement.

Statute: 85-3-202(1), 206(2d) and 212, MCA

4. Permitting Procedures

Information provided in the license applications is corroborated by the DNRC. The DNRC then awards or does not award the application based upon the statutory criteria.

Permit applications must be submitted at least ninety days prior to the date the weather modification operation is scheduled to begin. If the operation is new, the applicant is advised to consult with the DNRC at least six months before the operation is scheduled to begin. Once received, the application is evaluated, and an environmental analysis must be prepared by the DNRC. A hearing may be required at the applicant's expense. The DNRC may approve, approve with conditions, or reject an application based on the criteria described below.

5. Criteria

Competence in the field of weather modification and meteorology must be demonstrated by the applicants' experience, education, or certification by a nationally recognized weather modification professional society, agency, or organization. A minimum of one year of experience in management and control of a weather modification operation is required.

Approval criteria for permit applications are the following:

1) the person in charge is licensed to conduct weather modification activities in Montana;
2) the project has been properly noticed;
3) the project has been insured in a manner that would protect victims of any unintended weather modification results;
4) the fees have been or will be paid, in accordance with the statute; and
5) the project is determined by the DNRC to be for the general welfare and public good.

6. Additional Information

On petition of county residents, a county may establish a weather modification authority to engage in weather modification activities.

Statute: 85-3-401 *et seq.*, MCA

APPENDIX 1: MONTANA STATE AGENCIES

DEPARTMENT OF AGRICULTURE

Director, W. Ralph Peck
Agriculture and Livestock Building
303 North Roberts
P.O. Box 200201
Helena, Montana 59620
(406) 444-3144

Agricultural Sciences Division
Administrator, Gary Gingery
(406) 444-2944

Aerial pesticide applications
Apiaries
Commercial feed
Cropland leases
Feedlots
Fertilizer registration
Nurseries
Pesticide applications
Pesticide registration
Produce dealers

DEPARTMENT OF COMMERCE

Director, Dr. Peter S. Blouke
1424 Ninth Ave.
P.O. Box 200501
Helena, Montana 59620
(406) 444-3797

Division of Building Codes
Administrator, James Brown
1218 E. Sixth Ave.
P.O. Box 200517
(406) 444-3933

Building codes

Division of Professional and Occupational Licensing
Administrator, Steve Meloy
111 North Jackson, Lower Level
P.O. Box 200513
(406) 444-3737

Board of Outfitters and Guides
Director, Mathew Rude
(406) 444-3738

Outfitters and guides

Board of Realty Regulation
Executive Director, Grace Berger
(406) 444-2961

Sale of subdivided land

Local Government Assistance Division
Administrator, Newell Anderson
1424 Ninth Ave.
P.O. Box 200523
(406) 444-3757

Community Technical Assistance Program
Program Manager, Robb McCracken
(406) 444-4479

Subdivisions

Hard-Rock Mining Impact Board
Administrative Officer, Carol Ferguson
(406) 444-4478

Hard-rock mining

DEPARTMENT OF ENVIRONMENTAL QUALITY

Director, Mark Simonich
1520 East Sixth Ave.
P.O. Box 200901
Helena, Montana 59620-0901
(406) 444-2544

Community Right to Know

Permitting and Compliance Division

Administrator, Jan Sensibaugh
1520 East Sixth Ave.
P.O. Box 200901
(406) 444-4323

Air and Waste Management Bureau

Chief, Don Vidrine
Ph: (406) 444-3490 Fax: (406) 444-1499

Air quality permits
Asbestos control
Burning permits
Hazardous and medical waste incinerators
Hazardous waste

Community Services Bureau

Chief, Jon Dilliard
Ph: (406) 444-4400, Fax (406) 444-1374

Landfills
Medical waste incinerators
Motor vehicle wrecking facilities
Public sewer systems
Public water supplies
Roadside junkyards
Septic tank, cesspool and privy cleaning
Solid waste

Environmental Management Bureau

Chief, Art Compton
(406) 444-4953

Major Facility Siting Act
Hard-rock mining
Milling/reprocessing
Pipelines
Small miner's exemption
Wind energy

Industrial and Energy Minerals Bureau

Chief, Steve Welch
(406) 444-4970

Coal and uranium mining
Gravel pits
Opencut mining

Water Protection Bureau
Chief, Bonnie Lovelace
(406) 444-3080

3A authorizations
401 permitting
Animal confinement facilities
Dairies
Feedlots
Geothermal development
MPDES permits
MGWPCS permits
Nondegradation review
Oil and gas wells
Outstanding resource waters
Sanitarians
Slaughterhouses
Storm water permits
Subdivisions, sanitary restrictions
Water pollution discharge permits

Planning, Prevention and Assistance Division
Administrator, Van Jamison
1530 East Sixth Ave.
(406) 444-6697

Pollution Prevention Bureau
Chief, Louise Moore
(406) 444-4643

Wellhead protection

Technical and Financial Assistance Bureau
Chief, Tom Livers
(406) 444-6697

Indoor emissions
Occupational noise
Radon control

Remediation Division
Administrator, Denise Mills
2209 Phoenix Ave.
P.O. Box 200901
(406) 444-1420

Hazardous Waste Site Cleanup Bureau
Chief, Mike Trombetta
(406) 444-5977

Contaminated site cleanup
Superfund

Technical Services Bureau
Chief, Jim Hill
2209 Phoenix Avenue
(406) 444-5970

Underground storage tanks

Petroleum Tank Release Compensation Board
Executive Director, Jean Riley
2209 Phoenix Ave.
P.O. Box 200902
Ph: (406) 444-0925 Fax: (406) 444-1902

Underground storage tanks, release cleanup

ENVIRONMENTAL QUALITY COUNCIL

Legislative Branch, Legislative Environmental Policy Office
Legislative Environmental Analyst, Todd Everts
Capitol Building, Room 106
P.O. Box 201704
Helena, Montana 59620
Ph: (406) 444-3742 Fax: (406) 444-3971

Environmental Impact Statements
Environmental Assessments

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Director, Pat Graham
1420 East Sixth Ave.
P.O. Box 200701
http://fwp.mt.gov
Helena, Montana 59620
(406) 444-3186

Registration of experimental use pesticides
State parks

Administration and Finance Division
Administrator, Dave Mott
(406) 444-4786

Licensing/Data Processing
Chief, Barney Benkelman
(406) 444-4558

Fish and game licenses
Special permits and licenses

Enforcement Division
Administrator, Beate Galda
(406) 444-2452

Boating
Captive breeding of raptors
Commercial seining
Field trial permit
Fish ponds
Fishing, hunting, trapping regulations
Fur dealers
Game, game bird or fur farms
Ice fishing shelters
Migratory birds
Off-highway vehicles
Roadside zoos
Shooting preserves
Shooting preserve bird tags
Snare trapping
Snowmobiles
Taxidermy
Wild bird permits

Field Services Division
Administrator, Rich Clough
1400 Eighth Ave.
Ph: (406) 444-2602 Fax: (406) 444-3023

Conservation easements
Open space

Fisheries Division
Administrator, Larry Peterman
1420 East Sixth Ave.
(406) 444-2449

Habitat preservation
Importation of fish or fish eggs
Nongame and endangered species
Salmon eggs
Seining
Streambed protection
Taking fish for scientific purposes

Wildlife Division
Administrator, Don Childress
1420 East Sixth Ave.
(406) 444-2612

Baits on DFWP lands
Game preserves
Nongame and endangered species
Taking game for scientific purposes
Wild bird permits

MONTANA HISTORICAL SOCIETY

Director, Brian Cockhill
225 North Roberts
Helena, Montana 59620
Ph: (406) 444-2694 Fax: (406) 444-2696

State Historic Preservation Office
Preservation Officer, Paul Putz
1410 Eighth Ave.
P.O. Box 201202
(406) 444-7715

Antiquities permits
Burial site preservation
Heritage site preservation

DEPARTMENT OF JUSTICE

Attorney General, Joseph Mazurek
215 North Sanders, 3rd Floor
P.O. Box 201401
Helena, Montana 59620
(406) 444-2026

Division of Criminal Investigation
Administrator, Mike Batista
303 North Roberts, Scott Hart Building
P.O. Box 201417
(406) 444-3874

Fire Prevention and Investigation Bureau
Acting State Fire Marshall, Terry Phillips
1310 East Lockey
P.O. Box 201415
(406) 444-2050

Aboveground storage tanks
Fire inspection

Motor Vehicle Division
Administrator, Dean Roberts
303 North Roberts, Scott Hart Building
P.O. Box 201419
(406) 444-4536

Title and Registration Bureau
Chief, Daryll Shoen
1032 Buckskin Dr.
Deer Lodge, MT 59722
Ph: (406) 846-6000 Fax: (406) 846-6039

Motor vehicle wrecking facility quarterly reports

DEPARTMENT OF LABOR AND INDUSTRY

Commissioner, Pat Haffey
1327 Lockey, Walt Sullivan Building
P.O. Box 1728
Helena, Montana 59620
(406) 444-9091

Employment Relations Division
1805 Prospect
P.O. Box 8011

Safety Bureau
Chief, John Maloney
P.O. Box 1728
(406) 444-6401

Coal mining safety regulations
Hard-rock mining safety regulations
Opencut mining safety regulations

DEPARTMENT OF LIVESTOCK

Executive Officer, Larry Peterson
Scott Hart Building, 3rd Floor
310 Roberts
P.O. 202001
Helena, Montana 59620
(406) 444-2023

Animal Health Division
Administrator, Arnold Gertonson, DVM
Scott Hart Building, 3rd Floor
(406) 444-2043

Game Farms

Brands Enforcement Division
Administrator, Marc Bridges
Scott Hart Building, Second Floor
(406) 444-2045

Aerial hunting, predator control
Game farms

Meat, Milk and Egg Inspection Division
Administrator, Dr. Hal Sheets
Scott Hart Building, 3rd Floor
(406) 444-5202

Dairies
Slaughterhouses and meatpacking plants

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Director, Bud Clinch
USF&G Building
1625 Eleventh Ave.
P.O. Box 201601
Helena, Montana 59620
Ph: (406) 444-2074 Fax: (406) 444-2684

Conservation and Resource Development Division
Administrator, Ray Beck
(406) 444-6667

Conservation Districts Bureau
Chief, Steve Schmitz
(406) 444-6690

Conservation districts
Stream banks, stream beds

Forestry Division
Administrator, Don Artley
2705 Spurgin Road
Missoula, Montana 59804
Ph: (406) 542-4300 Fax: (406) 542-4217

Fire and Aviation Management Bureau
Chief, Tim Murphy
(406) 542-4304

Burning permits

Service Forestry Bureau
Chief, Chris Tootell
(406) 542-4300

Best Management Practices
Hazard reduction
Portable sawmills
Slash disposal
Streamside management zones
Timber removal

Oil and Gas Conservation Division
Administrative Officer, Terry Perrigo
Ph: (406) 444-6675
See also APPENDIX 2: State agency regional offices

Geophysical exploration
Oil and gas development

Trust Land Management Division
Administrator, Jeff Hagener
USF&G Building
1625 Eleventh Ave.
(406) 444-2074

Agriculture and Grazing Management Bureau
Chief, Kevin Chappell
(406) 444-3847

Cropland leases on state land
Grazing leases on state land

Forest Management Bureau
Chief, Pat Flowers
2705 Spurgin Road
(406) 542-4300

Timber sales

Minerals Management Bureau
Chief, Monte Mason
USF&G Building
(406) 444-3843

Mineral leases on state land
Underground storage of natural gas

Special Use Management Bureau
Chief, Clive Rooney
(406) 444-3844

Cabin sites
Easements on state land
Exchanges of state land
Hydroelectric sites
Island Parks
Leases of state land
Land use licenses
Natural areas
Recreational use licenses
Sales of state land

Water Resources Division
Administrator, Jack Stultz
48 N. Last Chance Gulch
(406) 444-6601

State Water Projects Bureau
Chief, Glen McDonald
(406) 444-6646

State water projects - canals, dams, hydropower

Water Management Bureau
Chief, Richard Moy
(406) 444-6637

Water planning
Weather modification

Water Operations Bureau
Chief, Laurence Siroky
(406) 444-0860

Dams safety program
Floodplain regulation
Lakeshores
Water measurement program
Water well construction standards

Water Rights Bureau
Chief, Nancy Anderson
(406) 444-6610

Water rights

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Director, Laurie Ekanger
111 North Sanders
P.O. Box 4210
Helena, Montana 59604
(406) 444-5622

Health Policy and Services Division
Administrator, Nancy Ellery
Cogswell Building, 1400 Broadway
(406) 444-4141

Communicable Disease Control and Prevention Bureau
Chief, Kathleen Martin
(406) 444-4735

Communicable Disease and Epidemiology Section
Supervisor, Tom Damrow
(406) 444-3986

Possession of wild animals

Food and Consumer Safety Section
Supervisor, Howard Reid
Ph: (406) 444-2408 Fax: (406) 444-4135

Food safety, water supplies and sewer systems for guest ranches and outfitter and guide facilities
Trailer courts, camp grounds, work and youth camps

Quality Assurance Division
Administrator, Denzel Davis
(406) 444-5401

Licensure Bureau
Chief, Roy Kemp
(406) 444-2868

Radiation control

DEPARTMENT OF PUBLIC SERVICE REGULATION

Chair, Dave Fisher
1701 Prospect Ave., Vista Building
P.O. Box 202601
Helena, Montana 59620
Ph: (406) 444-6199 Fax: (406) 444-7618

Utility Division
Administrator, Dan Elliott
(406) 444-6199

Electricity and gas suppliers
Motor carrier regulation
Pipelines
Utilities

SECRETARY OF STATE

Mike Cooney
State Capitol, Room 225
P.O. Box 202801
Helena, Montana 59620
Ph: (406) 444-2034 Fax: (406) 444-3976

Business Services Bureau
Customer Service Hotline
(406) 444-3665

Certificate of authority (oil and gas)
Surety bonds

DEPARTMENT OF TRANSPORTATION

Director, Marvin Dye
2701 Prospect Ave.
P.O. Box 201001
Helena, Montana 59620-1001
Ph: (406) 444-6200 Fax: (406) 444-7643

Aeronautics Division
Administrator, Michael Ferguson
2630 Airport Road
(406) 444-2506

Aerial pesticide application

Engineering Division
Administrator, Gary Gilmore
2701 Prospect Ave.
(406) 444-6206

Right-of-Way Bureau
Chief, Tom Martin, PE
(406) 444-6063

Easements, encroachments
Roadside junkyards

Maintenance Division
Administrator, D. John Blacker
2701 Prospect Ave.
(406) 444-7220

Area Maintenance Bureaus
(see APPENDIX 2)

Approach permits
Highway advertising permits
Utility permits

Motor Carrier Services Division
Administrator, Dave Galt
2701 Prospect Ave.
(406) 444-6130

Motor carrier regulation, interstate

APPENDIX 2: STATE AGENCY REGIONAL OFFICES

DEPARTMENT OF ENVIRONMENTAL QUALITY

Billings: Airport Industrial Park IP-9
1371 Rimtop Dr.
59105-1978

Enforcement Division
(406) 247-4452

Permitting and Compliance Division

Air and Waste Management Bureau
(406) 247-4448

Community Services Bureau
(406) 247-4445

Industrial & Energy Minerals Bureau
(406) 247-4430

Remediation Division
(406) 247-4450

Kalispell: 2250 Highway 93 North
59901

Permitting and Compliance Division

Industrial and Energy Minerals Bureau
(406) 752-7994

Missoula: 301 West Alder
59801

Permitting and Compliance Division

Air and Waste Management Bureau
(406) 523-4907

Polson: 830 Shoreline Drive
59860

Permitting and Compliance Division
Community Services Bureau
Water Protection Bureau
(406) 883-3567

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Billings: Region 5 Supervisor, Dick Ellis
2300 Lake Elmo Drive
59105-3998
(406) 247-2940

Bozeman: Region 3 Supervisor, Steve Lewis
1400 South 19th
59715-5496
(406) 994-4042

Glasgow: Region 6 Supervisor, Tom Hinz
RR 1-4210
59230-9707
(406) 228-3700

Great Falls: Region 4 Supervisor, Mike Aderhold
4600 Giant Springs Road
P.O. Box 6610
59406
(406) 454-5840

Kalispell: Region 1 Supervisor, Dan Vincent
490 North Meridian
P.O. Box 67
59901
(406) 752-5501

Miles City: Region 7 Supervisor, Don Hyyppa
P.O. Box 1630
59301
(406) 232-0900

Missoula: Region 2 Supervisor
3201 Spurgin Road
59801-3099
(406) 542-5500

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

OIL AND GAS CONSERVATION DIVISION FIELD OFFICES

Billings:
Division Office
2535 St. Johns Ave.
59102
(406) 656-0040

Glendive:
Division Office
400 Ryan Dr.
59330
(406) 365-4325

Plentywood:
Division Office
113 North Jefferson
59254
(406) 765-1537

Roundup:
Division Office
18 Halfbreed Creek Road
59072
(406) 323-3341

Shelby:
Division Office
P.O. Box 690
59474
(406) 434-2442

FORESTRY AND TRUST LAND MANAGEMENT FIELD OFFICES

Anaconda:
Unit Office
7916 Highway 1 West
59711
(406) 563-6078

Billings:
Southern Land Office
Airport Industrial Park
59105
(406) 247-4400

Bozeman:
Unit Office
151 Evergreen, Suite C
59715
(406) 586-5243

Conrad:	Unit Office P.O. Box 961 59425 (406) 278-7869
Dillon:	Unit Office 730 North Montana Street 59725 (406) 683-6305
Glasgow:	Unit Office 222 6th Street South 59230 (406) 228-2561
Greenough:	Clearwater Unit Office Highway 200 59836 (406) 244-5870
Hamilton:	Unit Office P.O. Box 713 59840 (406) 363-1585
Havre:	Unit Office 210 6th Ave. 59501 (406) 265-5236
Helena:	Central Land Office 8001 North Montana 59601 (406) 449-0944
Kalispell:	Northwestern Land Office and Unit Office 2250 Highway 93 North 59904 (406) 751-2240
Lewistown:	Northeastern Land Office USDA Building 613 N. E. Main Street 59457 (406) 538-5989

Libby:
Unit Office
14096 U.S. Highway 37
59923
(406) 293-2711

Miles City:
Eastern Land Office
321 Main
P.O. Box 1794
59301
(406) 232-2034

Missoula:
Southwestern Land Office
1401 27th Ave.
59801
(406) 542-4200

Missoula:
Unit Office
1500 Tower St.
59801
(406) 542-4201

Plains:
Unit Office
Plains Airport
P.O. Box 219
59859
(406) 826-3851

Olney:
Stillwater Unit Office
Stillwater State Forest
P.O. Box 164
59927
(406) 881-2371

Swan River:
Unit Office
Swan River State Forest
Swan Lake, MT 59911
(406) 754-2301

WATER RESOURCES DIVISION REGIONAL OFFICES

Billings:
1537 Ave. D, Suite 121
59102
(406) 657-2105

Bozeman:
151 Evergreen Dr., Suite C
59715
(406) 586-3136

Glasgow:
222 6th St. South
59230
(406) 228-2561

Havre:
210 6th Ave.
59501
(406) 265-5516

Helena:
21 N. Last Chance Gulch
59601
(406) 449-0944

Kalispell:
109 Cooperative Way, Suite 110
59903
(406) 752-2288

Lewistown:
613 NE Main St., Suite E
59457
(406) 538-7459

Missoula:
Town & County Shopping Center
1610 S. 3rd St. West, Suite 103
P.O. Box 5004
Missoula, MT 59806
(406) 721-4284

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Food and Consumer Safety Bureau

Billings:
Airport Industrial Park IP-9
1371 Rimtop Dr.
Billings, MT 59105-1978
(406) 247-4449

DEPARTMENT OF TRANSPORTATION

DISTRICT AND AREA FIELD OFFICES

Billings:
P.O. Box 20437
59104-0437
(406) 252-4138

Bozeman:	907 N. Rouse P.O. Box 1110 59771-1110 (406) 586-9562
Butte:	3751 Wynne P.O. Box 3068 59702-3068 (406) 494-9600
Glendive:	503 N. River Ave. P.O. Box 890 59330 (406) 365-5296
Great Falls:	104 18th Ave. NE P.O. Box 1359 59403-1359 (406) 727-4350
Havre:	P.O. Box 580 59501-0580 (406) 265-6821
Kalispell:	P.O. Box 7308 59904-0308 (406) 755-5717
Lewistown:	P.O. Box 491 59457-0491 (406) 538-8731
Miles City:	217 N. 4th P.O. Box 460 59301-0460 (406) 232-1093
Missoula:	2100 W. Broadway P.O. Box 7039 59807-7039 (406) 523-5800
Wolf Point:	Highway 25 E. HC 31, P.O. Box 3000 59201-9802 (406) 653-1050

APPENDIX 3: LOCAL PERMITTING AUTHORITIES

CONSERVATION and GRAZING DISTRICTS

Activities that effect stream banks or beds on private land (310 permit): forest activities, grazing leases, land use regulations, subdivision activities

CONSERVATION DISTRICT CONTACTS

Beaverhead District
Contact: Jan Phillips
420 Barrett Street
Dillon, Montana 59725
(406) 683-6539

Big Horn District
Contact: Gloria Menke
724 West Third Street
Hardin, Montana 59034
(406) 665-3777

Big Sandy District
Contact: Sonia Silvan
P.O. Box 111
Big Sandy, Montana 59520
(406) 378-2298

Bitterroot District
Contact: Marilyn Finley
1709 North First Street
Hamilton, Montana 59840
(406) 363-5010

Blaine County District
Contact: Shannon Sattleen
P.O. Box 189
Chinook, Montana 59523
(406) 357-2310

Broadwater District
Contact: Charlotte Lewis
415 South Front Street
Townsend, Montana 59644
(406) 266-3146

Carbon District
Contact: Molly Kaplan
606 West Front Avenue
Drawer J
Joliet, Montana 59041
(406) 962-3641

Carter County District
Contact: Georgia Bruski
P.O. Box 313
Ekalaka, Montana 59324
(406) 775-6355

Cascade County District
Contact: Debbie Wiggers
12-Third Street Northwest, Upper Level
Great Falls, Montana 59404
(406) 727-3603

Chouteau County District
Contact: Julia Bitz
P.O. Box 309
Fort Benton, Montana 59442
(406) 622-5627

Custer County District
Contact: DeAnna Dreyer
3120 Valley Drive East
Miles City, Montana 59301
(406) 232-2439

Daniels County District
Contact: Mary Tymofichuk
P.O. Box 605
Scobey, Montana 59263
(406) 487-2872

Dawson County District
Contact: Patty Winchell
102 Fir Street FP
Glendive, Montana 59330
(406) 365-5565

Deer Lodge Valley District
Contact: Susie Johnson
1 Hollenbach Road
Deer Lodge, Montana 59722
(406) 846-1703

E. Sanders County District
Contact: Patsy Meredith
102 Highway 200 West
Plains, Montana 59859
(406) 826-3701

Fergus County District
Contact: Shonny Nordland
211 McKinley, Suite 3
Lewistown, Montana 59457
(406) 538-7401

Flathead District
Contact: Cathy Jones
30 Lower Valley Road
Kalispell, Montana 59901
(406) 752-4220

Gallatin District
Contact: Carrie Leu
3710 West Fallon Street, #B
Bozeman, Montana 59718
(406) 587-6929

Garfield County District
Contact: Sonja Turner
P.O. Box 369
Jordan, Montana 59337
(406) 557-2232

Glacier County District
Contact: Gloria Mason
601 West Main Street, Suite 14
Cut Bank, Montana 59427
(406) 873-5752

Granite District
Contact: Susan Antonioli
P.O. Box U
Philipsburg, Montana 59858
(406) 859-3291

Green Mountain District
Contact: Marily McWilliams
P.O. Box 1329
Trout Creek, Montana 59874
(406) 847-2603

Hill County District
Contact: Debbie Cichosz
206 25th Street West
Havre, Montana 59501
(406) 265-6252

Jefferson Valley District
Contact: Kris Hugulet
3 Whitetail Road
Whitehall, Montana 59759
(406) 287-3215

Judith Basin District
Contact: Diane Keeney
P.O. Box 386
Stanford, MT 59479
(406) 566-2311

Lake County District
Contact: Chris Malgren
P.O. Box 766
Polson, Montana 59860
(406) 883-5875

Lewis and Clark County District
Contact: Gayla Wortman Hall
790 Colleen Street
Helena, Montana 59601
(406) 449-5278

Liberty County District
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Chester, Montana 59522
(406) 759-5778

Lincoln District
Contact: Vicki McGuire
655 Highway 93 North
Eureka, Montana 59917
(406) 296-2233

Little Beaver District
Contact: District Manager
P.O. Box 917
Baker, Montana 59313
(406) 778-2217

Lower Musselshell District
Contact: Alice Sellars
109 Railroad Avenue East
Roundup, Montana 59072
(406) 323-2103

Madison District
Contact: Stacy Sullivan
P.O. Box 606
Ennis, Montana 59729
(406) 682-7289

McCone District
Contact: Evelyn Kondelik
P.O. Box 276
Circle, Montana 59215
(406) 485-2660

Meagher County District
Contact: Donna Burns
P.O. Box 589
White Sulphur Springs,
Montana 59645
(406) 547-3633

Mile High District
Contact: Kris Hugulet
3 Whitetail Road
Whitehall, Montana 59759
(406) 287-3215

Mineral County District
Contact: Peggy Prince
P.O. Box 730
Superior, Montana 59872
(406) 822-3545

Missoula County District
Contact: Tara Comfort
5115 Highway 93 South
Missoula, Montana 59804
(406) 251-4826

North Powell District
Contact: Susie Johnson
1 Hollenback Road
Deer Lodge, Montana 59722
(406) 846-1703

Park District
Contact: Shaunda Hildebrand
5242 Highway 89 South
Livingston, Montana 59047
(406) 222-2899

Petroleum County District
Contact: James Altenburg
P.O. Box 118
Winnett, Montana 59087
(406) 429-6646

Phillips District
Contact: Diane Jones
HC 72, Box 7615
Malta, Montana 59538
(406) 654-1334

Pondera County District
Contact: Connie Hanson
Pondera Village
Shopping Center
Conrad, Montana 59425
(406) 278-3922

Powder River District
Contact: Twila Jo Talcott
P.O. Box 180
Broadus, Montana 59317
(406) 436-2417

Prairie County District
Contact: Sandy Brown
P.O. Box 622
Terry, Montana 59349
(406) 637-5381

Richland County District
Contact: Ethel Brost
HCR 89, Box 5165A
Sidney, Montana 59270
(406) 482-2110

Roosevelt County District
Contact: Joani Sherman
P.O. Box 517
Culbertson, Montana 59218
(406) 787-5232

Rosebud District
Contact: Diane Stephenson
P.O. Box 1200
Forsyth, Montana 59327
(406) 356-7479

Ruby Valley District
Contact: Shirley Galovic
P.O. Box 295
Sheridan, Montana 59749
(406) 842-5741

Sheridan County District
Contact: Thelma Williams
119 North Jackson
Plentywood, Montana 59254
(406) 765-1801

Stillwater District
Contact: Barbara Berry
P.O. Box 415
Columbus, Montana 59019
(406) 322-5359

Sweet Grass County District
Contact: Coral Wilson
P.O. Box 749
Big Timber, Montana 59011
(406) 932-5160

Teton County District
Contact: Amy Fry
Route 2, Box 240
Choteau, Montana 59422
(406) 466-5722

Toole County District
Contact: Karen Lamey
1125 Oilfield Ave.
Shelby, Montana 59474
(406) 434-5835

Treasure County District
Contact: Susan Redding
P.O. Box 231
Hysham, Montana 59038
(406) 342-5466

Upper Musselshell District
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Harlowton, Montana 59036
(406) 632-5534

Valley County District
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Glasgow, Montana 59230
(406) 228-4337

Wibaux District
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P.O. Box 314
Wibaux, Montana 59353
(406) 795-2211

Yellowstone District
Contact: LaVerne Ivie
1629 Avenue D
Building B, Suite 2
Billings, Montana 59102
(406) 657-6015

DISTRICT COURT

Mining right-of-way
Overhead lines

LOCAL GOVERNING BODIES: CITY OR TOWN COUNCILS OR BOARD OF COUNTY COMMISSIONERS

Airport zoning
Building codes
Burning permits
Ferries
Fire inspection
Floodway regulation
Geophysical exploration
Highway excavations
Improvement districts
Lakeshore protection
Mains, water and sewer
Mining claims
Oil and gas leases
Overhead lines
Stream preservation
Subdivision plat approval
Timber removal
Utility extensions
Water appropriations
Zoning

LOCAL HEALTH OFFICIALS

Air pollution permits
Campgrounds
Dairies
Guest ranch and outfitter facilities
Solid waste disposal facilities
Subdivisions, sanitary restrictions
Tourist campgrounds
Trailer courts

SHERIFF

Fire inspection

APPENDIX 4: FEDERAL AGENCIES

U.S. DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Northern Region
200 East Broadway
P.O. Box 7669
Missoula, MT 59807
(406) 329-3511

Activities on Forest Service land
burning permits, grazing leases, mining

U.S. DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS

Helena: Federal Building
301 South Park, Drawer 10014
59626-0014
(406) 441-1375

Billings: Building B, Suite 1
1629 Ave. D
59102-3091
Ph: (406) 657-5910 Fax: (406) 657-5911

Dams and reservoirs
Stream preservation, wetlands

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Interstate Land Sales Registration Division
Office of Consumer and Regulatory Affairs
451 7th St.
Washington D.C. 20410
(202) 708-0502

Land leases and sales outside Montana

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Billings: Montana State Office
222 North 32nd Street
P.O. Box 36800
59107
(406) 255-2913

Lewistown: Resource Area or Field Office
Airport Road
59457
(406) 538-7461

Butte: Resource Area or Field Office
P.O. Box 3388
59702
(406) 494-5059

Miles City: Resource Area or Field Office
P.O. Box 950
59301
(406) 232-4333

Grazing leases
Mine claim recording

FISH AND WILDLIFE SERVICE

Federal Building
301 South Park, Drawer 10014
Helena, MT 59626-0014
(406) 441-1375

Threatened and endangered species
Wind energy

Law Enforcement
P.O. Box 30396
Billings, MT 59107
(406) 247-7355

Migratory birds

Law Enforcement
Permits Division
P.O. Box 25486, DFC
Denver, CO 80225
(303) 236-7890

Captive breeding of raptors

U.S. DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

2900 4th Ave. N.
Billings, Montana 59101
(406) 247-7494

Indoor emissions
Occupational noise

U.S. ENVIRONMENTAL PROTECTION AGENCY

Helena: Region VIII, Montana Office
Federal Building
301 South Park, Room 102
Drawer 10096
59626-0096
(406) 441-1123

Activities on tribal lands
Asbestos abatement
NPDES Permits
Oil and gas recovery (Underground Injection Control Program)
Pesticide registration

Denver: Regional Office
999 18th St., Suite 500
Denver, CO
80202-2466
Ph: (303) 312-6312 Fax: (303) 312-6339

Radon information

U.S. FEDERAL ENERGY REGULATORY COMMISSION

Regional Office
1120 SW 5th Avenue, Suite 1340
Portland, Oregon 97204

Office of Hydropower Licensing
Washington D.C. 20426
(202) 219-2770

Hydroelectric sites

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